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1800

The Positions of FRENCH & ENGLISH SHIPS on the 11th of April — by — M.r Edward Fairfax. Master of the Fleet.

NOTE

The Soundings are in fm unless otherwise expressed and copied from a French Chart taken out of L'Armide French Frigate captured in 1806.

BASQUES ROADS

True North

The Figures Express Fathoms sounded by M.r Fairfax.

Course of Fire Ships

Imperieuse and advanced Frigates

Indefatigable & Brigs

Etna Bomb

Red Pole with Lights

Isle D'Aix

Citadel

Lyra with Lights

Boyart

Scale of two Miles

Knette Isle

Redoubt

Fouras

Palles Shoal

Wrack of Jean Bart

Charente River

Ile Madame

Fort de Point de Plume

ISLE OF OLERON

Banc's

MAINLAND

MINUTES

OF A

COURT MARTIAL

HOLDEN ON BOARD HIS MAJESTY'S SHIP

GLADIATOR,

IN PORTSMOUTH HARBOUR,

ON WEDNESDAY, THE 26th DAY OF JULY, 1809,

And continued by Adjournment

Till FRIDAY, the 4th Day of AUGUST following,

ON THE TRIAL OF

THE RIGHT HONOURABLE

JAMES LORD GAMBIER:

ADMIRAL OF THE BLUE,

Commander in Chief of the Channel Fleet, &c. &c.

INCLUDING

A COMPLETE COPY OF HIS LORDSHIP'S DEFENCE,

Taken from the Original:

AND THE WHOLE OF THE EVIDENCE AND OCCASIONAL DISCUSSION.

TAKEN IN SHORT-HAND BY

MR. W. B. GURNEY.

PORTSMOUTH:

PRINTED BY MOTTLEY, HARRISON, AND MILLER;

SOLD BY LONGMAN, HURST, REES, AND ORME, PATERNOSTER-ROW, LONDON; AND CONGDON, PLYMOUTH DOCK.

1809.

DA88
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1809

ADVERTISEMENT.

IN order that the public may be in possession of every particular relating to this important Trial, so materially involving the interests and character of the BRITISH NAVY, the Correspondence, which laid the foundation of it, is published as an introduction to the Minutes,

(COPY.)

SIR, *London, 30th May*, 1809.

HAVING, in my letter to you of the 10th instant, detailed the whole of the proceedings of the fleet under my command in the attack on the enemy in the road of Aix; I had flattered myself that I should have received some signification of an approbation of my conduct, and have had the gratifying task of conveying to the officers and men under my command the estimation in which the gallantry and discipline displayed by them upon that occasion were held by his Majesty and their Country.

Understanding, however, that there are some doubts whether the fleet is to be so honoured, and feeling that even a doubt upon such a subject cannot be entertained consistently with my reputation as Commander in Chief, I request that you will be pleased to move the Lords Commissioners of the Admiralty to direct a Court Martial to be assembled as early as possible, for

the purpose of enquiring into my conduct as Commander in Chief, and all the transactions relating to the fleet under my command, from the 17th March last, when the Caledonia anchored in Basques Road, to the time of her quitting that anchorage for England on the 29th ultimo.

I have the honour to be, &c.

(Signed) GAMBIER.

The Hon. W. W. Pole, &c. &c. &c.

My Lord, *Admiralty Office, 4th June,* 1809.

Having laid before my Lords Commissioners of the Admiralty your Lordship's letter of the 30th ultimo, requesting, for the reasons therein mentioned, that their Lordships would direct a Court Martial to be assembled as early as possible, for the purpose of enquiring into your conduct as Commander in Chief, and all the transactions relating to the fleet under your command, from the 17th of March last, when the "Caledonia" anchored in Basque Roads, to the time of her quitting that anchorage for England on the 29th ultimo; I am commanded by their Lordships to acquaint you that a Court Martial will, accordingly, be ordered agreeably to your desire, and that an early opportunity will be taken of furnishing your Lordship with a copy of the charge.

I have the honour to be,

My Lord,

Your Lordship's most obedient

Humble servant,

W. W. POLE.

Admiral Lord Gambier, &c. &c. &c.

My Lord, *Admiralty Office, 5th June,* 1809.

I have received the commands of my Lords Commissioners of the Admiralty, to acquaint you, that it is their Lordships' intention to order the Court-Martial for your Lordship's Trial, to assemble at Portsmouth, on Monday the 19th instant, unless

you should inform me, in answer to this notice, that you cannot be prepared by that time.

I am, at the same time, commanded to transmit a Copy of the Charge preferred against your Lordship.

I have the honor to be,
MY LORD,
Your Lordship's most obedient
Humble servant,

Admiral Lord Gambier. W. W. POLE.

SIR, *London, 6th June,* 1809.

I HAVE this day received your letter of the 5th instant, acquainting me, that it is the intention of the Lords Commissioners of the Admiralty, to order the Court-Martial for my Trial to assemble at Portsmouth, on Monday the 19th instant, unless I should now inform you that I cannot be prepared by that time; and transmitting a Copy of the Charge preferred against me.

In return thereto, I beg leave to enclose a list, containing the names of the flag officer, and captains commanding ships employed, under my command, in Basques Roads, on the 12th April, leaving it to their Lordships to order all, or any part of them, indiscriminately, to attend to give evidence: at the same time I must remark, that as the Rear Admiral Stopford, with the Cæsar, Valiant, Revenge, and Theseus, and all the frigates, were in Aix Roads on the day stated, it may be in the power of those officers to say more upon the subject of the charge contained in their Lordships' order, than the rest.

I have also to state to their Lordships, that most of the officers named in the enclosed list, were employed in Basques Roads, between the 17th March and 29th April, and can give any information to the Court which it may think necessary, on the enquiry directed by the said order.

I shall be ready to meet the Court on the 19th instant, if their Lordships shall be of opinion they can select, from the enclosed list, a number sufficient to give evidence upon the occasion.

I have to request you will furnish me with copies of the letters to and from Lord Cochrane, referred to in the charge; and also of the log-books, and minutes of signals, therein-mentioned.

I have honour to be,

SIR,

Your most obedient

humble servant,

(Signed) GAMBIER.

The Hon. W. W. Pole, &c. &c. &c.

NAMES *of* FLAG OFFICER, *and* CAPTAINS *commanding Ships employed in* BASQUES ROAD, *on the* 12*th April*, 1809.

Rear Admiral STOPFORD.	
Sir HARRY NEALE, Bart.	Captain of the Fleet.
Captain JN. NEWMAN,	of the Hero.
BEDFORD,	Caledonia.
MALCOLM,	Donegal.
BURLTON,	Resolution.
BERESFORD,	Theseus.
BALL,	Gibraltar.
BLIGH,	Valiant.
BROUGHTON,	Illustrious.
DOUGLAS,	Bellona.
RICHARDSON,	Cæsar.
KERR,	Revenge.
Captain RODD,	Indefatigable.
HARDYMAN,	Unicorn.
WOLFE,	Aigle.
MAITLAND,	Emerald.
SEYMOUR,	Pallas.

(Signed) GAMBIER.

London, 6th June.

MY LORD, *Admiralty Office, 7th June, 1809.*

I HAVE received, and laid before my Lords Commissioners of the Admiralty, your Lordship's letter of yesterday's date, inclosing a list of the flag officer, and captains, commanding ships employed under your command, in Basque Roads, on the 12th April last; and I am commanded by their Lordships to acquaint you, that all the officers named in the said List will be summoned to give evidence at the Court-Martial to be assembled for your trial, except Captain Maitland, of the Emerald, who, being on the Irish station, will not be ordered to attend, unless your Lordship thinks it necessary.

Their Lordships will cause due notice to be given to you, when the trial will take place.

I am further commanded to send your Lordship copies of the letters to and from Lord Cochrane, referred to in the charge; also of the log-books, and minutes of signals thereinmentioned, agreeably to your request.

I have the honour to be,
MY LORD,
Your Lordship's most obedient
Humble servant,
W. W. POLE.

Admiral Lord Gambier.

LIST *of other* OFFICERS *summoned for the Trial.*

The Right Honble. Lord COCHRANE,	Imperieuse.
Capt. GODFREY,	Bomb, Ætna.
Capt. NEWCOMBE,	Beagle.
Lieut. CROSSMAN,	Growler.
Lieut. HOCKINGS,	Caledonia.
Mr. FAIRFAX,	Master of the Fleet,
Mr. STOKES,	Master of the Caledonia.
Mr. RAVEN,	Master of the Cæsar.
Mr. SPURLING,	Master of the Imperieuse.
Mr.	Master's Mate of the Beagle.

Mr. SPARSHOTT, Assistant Signal Officer of the Caledonia.

Two French Pilots, Caledonia.

JAMES WILKINSON, Esq. Secretary to the Commander in Chief.

My Lord, *Admiralty Office, 17th July*, 1809.

I am commanded by my Lords Commissioners of the Admiralty to acquaint your Lordship, that directions have been given for assembling the Court-martial for your trial, at Portsmouth, on Monday, the 24th instant.

I have the honour to be,

My Lord,

Your most obedient humble servant,

JAMES BARROW.

Admiral Lord Gambier.

Admiralty Office, 20th July, 1809.

Sir,

My Lords Commissioners of the Admiralty, thinking it fit that you should assist the Judge Advocate of His Majesty's fleet, or his Deputy, in selecting and preparing the evidence that it may be proper to bring forward on the part of the prosecution, at the Court Martial ordered to be held the 24th instant, upon Admiral Lord Gambier; I have it in command from their Lordships to signify their direction to you to proceed to Portsmouth, as soon as may be necessary, for the purpose above mentioned.

I am, Sir,

Your very humble servant,

(Signed) JOHN BARROW.

Mr. Bicknell.

COURT MARTIAL.

FIRST DAY.

PROCEEDINGS of a COURT MARTIAL, assembled on board his Majesty's Ship GLADIATOR, in Portsmouth Harbour, which commenced on the 26th day of July, 1809.

PRESENT,

Sir ROGER CURTIS, Bart. Admiral of the White, and Commander in Chief of His Majesty's Ships and Vessels at Spithead, and in Portsmouth Harbour, President,

WM. YOUNG, Esq. Admiral of the Blue.	Sir J. T. DUCKWORTH, K.B. Vice Admiral of the Red.
Sir H. E. STANHOPE, Bart. Vice Admiral of the White.	BILLY DOUGLAS, Esq. Vice Admiral of the White.
G. CAMPBELL, Esq. Vice Admiral of the Blue.	JOHN SUTTON, Esq. Rear Admiral of the Red.
Captain JOHN IRWIN.	Captain ROBERT HALL.
——— E. S. DICKSON.	——— R. D. DUNN.

MOSES GREETHAM, JUN. ESQ. JUDGE ADVOCATE.

The Court opened about eleven o'clock, and the Right Hon. Admiral Lord Gambier was brought in, attended by John Crickitt, Esq. Marshal of the Admiralty, and audience admitted.

The Order to Sir Roger Curtis, Bart. from the Admiralty was then read, which was as follows:—

(COPY.)

By the Commissioners for executing the Office of Lord High Admiral of the United Kingdom of Great Britain and Ireland, &c.

WHEREAS Admiral the Right Hon. Lord Gambier has, by his letter to our Secretary, of the 30th of May, 1809, requested, that his conduct, as Commander in Chief of the Channel Fleet employed in Basque Roads, between the 17th day of March and the 29th day of April, 1809, may be enquired into by a Court Martial:

And whereas, by the Log-books and Minutes of Signals of the Caledonia, Imperieuse, and other ships employed on that service, it appears to us, that the said Admiral Lord Gambier, on the 12th day of the said month of April, the enemy's ships being then on shore, and the signal having been made that they could be destroyed, did, for a considerable time, neglect or delay taking effectual measures for destroying them: We, therefore, in compliance with his Lordship's request, and in consequence of what appears in the said Log-books and Minutes of Signals, think fit that a Court Martial shall be assembled for the purpose of examining into his Lordship's conduct, and trying him for the same: We send you herewith his Lordship's said letter, and also his letter of the 10th of the said month therein referred to, together with an attested copy of a letter of our Secretary, dated the 29th of last month, and addressed to Lord Cochrane, and his Lordship's reply thereto; with the Log-books and Minutes of Signals above-mentioned: and we do hereby require and direct you to assemble a Court Martial on Monday the 19th day of this month (if the witnesses shall be then ready, and if not then ready, as soon after as they shall be so) to try the said Admiral, the Right Hon. Lord Gambier, for his conduct in the instance herein-before mentioned; and also to inquire into his whole conduct as Commander in Chief of the Channel Fleet employed in Basque Roads, between the 17th day of March and the 29th day of April, 1809, and to try him for the same accordingly.—Given under our hands the 5th day of June, 1809.

(SIGNED) MULGRAVE.
R. BICKERTON.
WM. DOMETT.
R. MOORSOM.

To Sir ROGER CURTIS, Bart. Admiral of the White, and Commander in Chief of his Majesty's Ships and Vessels at Spithead, and in Portsmouth Harbour.

By Command of their Lordships,
W. W. POLE.

Copy of a letter from Lord GAMBIER *to the Hon. W. W.* POLE, *dated March* 26, 1809.

(SECRET) *Caledonia, in Basque Roads, 26th March*, 1809.

SIR,

I HAVE this day received, by the Encounter gun-brig, your most secret letter of the 19th inst. accompanied by a paper drawn by Sir Richard Keats, with his opinion of the mode of attack upon an enemy's squadron moored under the Isle of Aix; and signifying the directions of the Lords Commissioners of the Admiralty to me, to take into my consideration the possibility of making an attack upon the enemy's fleet, either conjointly with the line-of-battle ships under my command, and the frigates, small craft, &c. or separately therewith. You will be pleased to acquaint their Lordships, that I shall apply all the powers and energy of my mind to carry into effect their directions as far as possible, when the means with which their Lordships have ordered me to be furnished arrive at this anchorage. I will not at present detain the Encounter in her return to Plymouth, but will dispatch another vessel to-morrow, and will furnish you with a statement of the enemy's force, position, and circumstances for their Lordships' information. Their ships certainly lie exposed to an attack upon them with fire-vessels with a hope of success.

I have the honour to be, &c. &c.

To the Hon. W. W. Pole. GAMBIER.

Copy of a Letter from Lord GAMBIER *to the Hon.* W. W. POLE, *dated March* 26, 1809.

(SECRET.)

Caledonia, in Basque Roads, March 26, 1809.

SIR,

IN obedience to their Lordships' directions to me, contained in your letter of the 19th instant,

I beg leave to state to them, that it is advisable I should be furnished with six gun-brigs, in addition to those that I may be able to collect of such as are under my command; at present there are only two at this anchorage. I shall, however, order the Insolent and Contest to join me from Quiberon Bay, and I should hope the Martial and Fervent will return shortly from Plymouth.

It is proper I should state, for their Lordships' information, the position in which the French fleet is at present anchored, near the Isle of Aix, that their Lordships may be able to form a judgment of the success that may be expected to attend an attack upon the enemy's fleet, in either of the modes directed by their Lordships, in your letter above-mentioned. The enemy's ships are anchored in two lines, very near to each other, in a direction due south from the fort on the Isle of Aix, and the ships in each line not further apart than their own length; by which it appears, as I imagined, that the space for their anchorage is so confined by the shoalness of the water, as not

to admit of ships to run in and anchor clear of each other; the most distant ships of their two lines are within point blank shot of the works upon the Isle of Aix; such ships, therefore, as might attack the enemy would be exposed to be raked by the hot shot, &c. from the island; and should the ships be disabled in their masts, they must remain within the range of the enemy's fire until they are destroyed, there not being sufficient depth of water to allow them to move to the southward out of distance.

The enemy have taken their position apparently with the view not only to be protected by the strong works upon the Isle of Aix, but also to have the entrance to the Charente open to them, that in case of being attacked by fire-ships, and other engines of the kind, they can run up the river beyond the reach of them. The tide and wind that are favourable to convey this kind of annoyance to the enemy, serve equally to carry them up the river.

With respect to the attempt that may be made to destroy the enemy's ships with shells, &c. I am not competent to give an opinion, until it is ascertained whether the bombs can be placed within the reach of their mortars to the enemy's ships, without being exposed to the fire from the Isle of Aix.

I beg leave to add, that if their Lordships are of opinion that an attack of the enemy's ships by those of the fleet under my command is practicable, I am ready to obey any orders they may be pleased to honour me with, however great the risk may be of the loss of men and ships.

I have the honour to be, &c.

To the Hon. W. W. Pole. GAMBIER.

Copy of a Letter from the Right Honourable Lord GAMBIER, *dated April* 14, 1809, *to the Honourable* W. W. POLE.

Caledonia, at anchor in Basque Roads,

SIR, *April* 14, 1809.

THE Almighty's favour to his Majesty and the nation has been strongly marked in the success he has been pleased to give to the operations of his Majesty's fleet under my command; and I have the satisfaction to acquaint you, for the information of the Lords Commissioners of the Admiralty, that the four ships of the enemy, named in the margin,* have been destroyed at their anchorage, and several others, from getting on shore, if not rendered altogether unserviceable, are at least disabled for a considerable time.

The arrangement of the fire-vessels, placed under the direction of Captain the Right Honourable Lord Cochrane, was made as fully as the state of the weather would admit, according to his Lordship's plan, on the evening of the 11th instant; and at eight o'clock on the same night they proceeded to the attack under a favourable strong wind from the northward, and flood

* *Ville de Varsovie, of* 80 *guns; Tonnére, of* 74 *guns; Aquilon, of* 74 *guns; and Calcutta, of* 56 *guns.*

tide (preceded by some vessels filled with powder and shells, as proposed by his Lordship, with a view to explosion), and led on in the most undaunted and determined manner by Capt. Wooldridge, in the Mediator fire-ship, the others following in succession; but owing to the darkness of the night, several mistook their course, and failed.

On their approach to the enemy's ships, it was discovered, that a boom was placed in front of their line for a defence. This, however, the weight of the Mediator soon broke, and the usual intrepidity and bravery of British seamen overcame all difficulties, advancing under a heavy fire from the forts in the Isle of Aix, as well as from the enemy's ships, most of which cut or slipt their cables, and from the confined anchorage got on shore, and thus avoided taking fire.

At daylight, the following morning, Lord Cochrane communicated to me, by telegraph, that seven of the enemy's ships were on shore, and might be destroyed. I immediately made the signal for the fleet to unmoor and weigh, intending to proceed with it to effect their destruction. The wind, however, being fresh from the northward, and the flood-tide running, rendered it too hazardous to run into Aix Roads (from its shallow water), I therefore anchored again at the distance of about three miles from the forts on the Island.

As the tide suited, the enemy evinced great activity in endeavouring to warp their ships (which had grounded) into deep water, and succeeded in getting all but five of the line towards the entrance of the Charente before it became practicable to attack them.

I gave orders to Capt. Bligh, of the Valiant, to proceed with that ship, the Revenge, frigates, bomb, and small vessels, named in the margin † to anchor near the Boyart-shoal, in readiness for the attack. At 20 minutes past two P.M. Lord Cochrane advanced in the Imperieuse, with his accustomed gallantry and spirit, and opened a well-directed fire upon the Calcutta, which struck her colours to the Imperieuse; the ships and vessels above-mentioned soon after joined in the attack upon the Ville de Varsovie and Aquilon, and obliged them, before five o'clock, after sustaining a heavy cannonade, to strike their colours, when they were taken possession of by the boats of the advanced squadron. As soon as the prisoners were removed they were set on fire, as was also the Tonnére, a short time after by the enemy.

I afterwards detached Rear-Admiral the Hon. Robert Stopford, in the Cæsar, with the Theseus, three additional fire-ships (which were hastily prepared in the course of the day), and all the boats of the fleet, with Mr. Congreve's rockets, to conduct the further operations of the night against any of the ships which lay exposed to an attack. On the morning of the 13th, the Rear-Admiral reported to me, that as the Cæsar and other line-of-battle ships had grounded, and were in a dangerous situation,

† *Indefatigable, Unicorn, Aigle, Emerald, Pallas, Beagle, Etna Bomb, Insolent gun-brig, Conflict, Encounter, Fervent, and Growler.*

he thought it advisable to order them all out, particularly as the remaining part of the service could be performed by frigates and small vessels only; and I was happy to find that they were extricated from their perilous situation.

Captain Bligh has since informed me, that it was found impracticable to destroy the three-decked ship, and the others, which were lying near the entrance of the Charente, as the former, being the outer one, was protected by three lines of boats placed in advance from her.

This ship and all the others, except four of the line and a frigate, have now moved up the Charente. If any further attempt to destroy them is practicable, I shall not fail to use every means in my power to accomplish it.

I have great satisfaction in stating to their Lordships how much I feel obliged to the zealous co-operation of Rear-Admiral Stopford, under whose arrangement the boats of the fleet were placed; and I must also express to their Lordships the high sense I have of the assistance I received from the abilities and unremitted attention of Sir Harry Neale, Bart. the Captain of the Fleet, as well as of the animated exertions of the captains, officers, seamen, and marines under my command, and their forwardness to volunteer upon any service that might be allotted to them; particularly the zeal and activity shewn by the captains of line-of-battle-ships in preparing the fire vessels.

I cannot speak in sufficient terms of admiration and applause of the vigorous and gallant attack made by Lord Cochrane upon the French line-of-battle ships which were on shore, as well as of his judicious manner of approaching them, and placing his ship in a position most advantageous to annoy the enemy, and preserve his own ship; which could not be exceeded by any feat of valour hitherto achieved by the British navy.

It is due to Rear-Admiral Stopford and Sir Harry Neale, that I should here take the opportunity of acquainting their Lordships of the handsome and earnest manner in which both these meritorious Officers had volunteered their services before the arrival of Lord Cochrane to undertake an attack upon the enemy with fire-ships; and that, had not their Lordships fixed upon him to conduct the enterprize, I have full confidence that the result of their efforts would have been highly creditable to them.

Not having had it in my power, as yet, to ascertain the conduct of the Officers commanding the fire-ships, except that of the Mediator, I am under the necessity of deferring to state how far they fulfilled their duty on this hazardous service in which they were engaged.

I should feel that I did not do justice to the services of Capt. Godfrey, of the Etna, in bombarding the enemy's ships on the 12th, and nearly all the day of the 13th, if I did not recommend him to their Lordships' notice; and I cannot omit bearing due testimony to the anxious desire expressed by Mr. Congreve to be employed wherever I might conceive his services in the management of his rockets would be useful; some of them were placed in the fire-ships with effect, and I have every reason to be satis-

fied with the artillerymen and others who had the management of them, under Mr. Congreve's direction.

I send herewith a return of the killed, wounded, and missing of the fleet, which, I am happy to observe, is comparatively small. I have not yet received the returns of the number of prisoners taken, but I conceive they amount to between 4 and 500. I have charged Sir Harry Neale with this dispatch (by the Imperieuse), and I beg leave to refer their Lordships to him, as also to Lord Cochrane, for any further particulars of which they may wish to be informed. I have the honour to be, &c.

(SIGNED) GAMBIER.

APRIL 15.—P.S. This morning three of the enemy's line-of-battle-ships are observed to be still on shore under Fouras, and one of them is in a dangerous situation. One of these frigates (L'Indienne) also on shore, has fallen over, and they are now dismantling her. As the tides will be off in a day or two, there is every probability that she will be destroyed.

Since writing the foregoing, I have learnt that the Hon. Lieut.-Colonel Cochrane (Lord Cochrane's brother) and Lieut. Bissel, of the navy, were volunteers in the Imperieuse, and rendered themselves extremely useful, the former by commanding some of her guns on the main-deck, and the latter in conducting one of the explosion-vessels.

(COPY.)

Copy of a Letter from Lord GAMBIER *to the Hon.* W. W. POLE, *dated*

SIR, *London, 10th May*, 1809.

I HAVE received your letter of the 2d inst. acknowledging the receipt of the list, containing the names of the Officers and men employed in the fire-ships and explosion vessels on the night of the 11th ult. with my observations on the result of my enquiry respecting their conduct on that occasion; and signifying that you are commanded by their Lordships to acquaint me, that, in in order to have before them, full and complete information of the proceedings of the several ships employed by me, on the various branches of the very important operations carried on against the enemy's fleet in Aix Road, it is their Lordships' direction, that I should call upon Rear-Admiral Stopford, Captain Bligh, Captain Lord Cochrane, and any other officer I may have entrusted with any part of that service, to report to me their proceedings, together with such observations and remarks as they may have made whilst they were executing my orders against the enemy; and that I should transmit the same to their Lordships, with any observations I may think proper to make thereon.

You will be pleased to acquaint their Lordships, that I have written to those officers to make reports to me accordingly, and shall lose no time in transmitting them to you as soon as they are obtained, but some time must elapse before they can reach me.

From communications I have since had with their Lordships, I am led to understand, that a more full and detailed account

than I have transmitted, of the proceedings of the fleet under my command, during the whole of its operations in Basque Roads, would be desirable; I shall, therefore, in making such a statement, endeavour to omit no incident that may be in any degree connected with those operations, or serve to elucidate the various movements and proceedings of the fleet, persuaded, that doing so, cannot fail to promote the satisfaction which, in common, with the Officers and men under my command, I feel upon that occasion, and on the success which has resulted from it.

Their Lordships are aware, that soon after I had taken the anchorage of Basque Roads, I stated to them the strong position of the enemy's fleet in Aix Roads; that their ships were moored in two compact lines, and the most distant ship of each line within point blank range of the batteries of Isle d'Aix, explaining, at the same time, that they were under the necessity of mooring in such close order, not for the purpose of opposing a more formidable front, but to avoid the shoals close around the anchorage; and their Lordships will also remember, that I then pointed out the impracticability of destroying them by an attack with the ships of the line, in the position they occupied; but that I conceived them to be assailable by fireships; having previously suggested to Lord Mulgrave the expediency of sending out 20 or 30 vessels for that purpose.

This suggestion was anticipated by their Lordships, and they were pleased to order 12 sail of fire-ships to join me, and to direct me to fit out eight others on the spot. Upon the arrival of Capt. Lord Cochrane, whom their Lordships had ordered me to employ in conducting the execution of the service to be performed by the fire-ships, I was induced, at his suggestion, to add the Mediator to the number.

These preparations were completed on the 11th ultimo at night, and having previously called on board the Caledonia the Commanders and Lieutenants who had volunteered their services, and who had been appointed by me to command fire-vessels, I furnished them with full instructions for their proceedings in the attack, according to Lord Cochrane's plan, and arranged the disposition of the frigates and small vessels to cooperate in the following manner.

The Unicorn, Aigle, and Pallas, I directed to take a station near the Boyart shoal, for the purpose of receiving the crews of the fire-ships on their return from the enterprise, to support the boats of the fleet which were to accompany the fire-ships, and to give assistance to the Imperieuse, which ship was still further advanced. The Whiting schooner, King George, and Nimrod cutters, were fitted for throwing rockets, and directed to take a station near the same shoal for that purpose.

The Indefatigable, Foxhound, and Etna bomb, were to take a station as near the fort on the Isle of Aix as possible; the two former to protect the bomb vessel, whilst she threw shells into the fort.

The Emerald, Dotterel, and Beagle sloops, and Growler, Conflict, and Insolent gun-brigs, were stationed to make a diversion at the east end of the Isle of Aix.

The Redpole and Lyra I directed to be anchored by the Master of the Fleet (one near the Isle of Aix, and the other near the Boyart), with lights hoisted, to guide the fire ships in their course to the attack; and the boats of the fleet were ordered to assemble alongside the Cæsar, to proceed to assist the fire ships, under the superintendance of Rear-Admiral Stopford.

With these pre-concerted movements the fleet was at this time unmoored, in readiness to render any service that might be practicable; but being anchored in a strong tide-way, with the wind fresh from the N.W. upon the weather tide making, it was again moored, to prevent the ships falling on board each other.

At about half past eight P.M. the explosion-vessels and fire-ships proceeded to the attack; at half past nine the first explosion-vessel blew up, and at ten most of the fire-ships were observed to be on fire; the enemy's forts and ships firing upon them. Many of the fire-ships were seen to drive through their fleet, and beyond the Isle of Aix.

Shortly after day-light, Lord Cochrane, who, in the Imperieuse, lay about three miles from the enemy, made the signal to me by telegraph, that seven of the enemy's ships were on shore, and that half the fleet could destroy them. It was visible from the Caledonia what ships were aground, and that two or three had made their escape up the Charente. I immediately ordered the fleet to be unmoored, and at half past nine weighed and run up nearer to the Isle of Aix, with the view, when the time of tide should render it advisable, that some of the line-of-battle ships might proceed to attack the enemy's ships on shore; but the wind blowing fresh from the N.N.W. with a flood tide, I judged it unadvisable to risk any of them at that time in so perilous a situation. The fleet was therefore anchored. I made the signal for each ship to prepare, with spare or sheet cables out of the stern ports, and springs on them, to be in readiness for any of them to go in that I might judge necessary; in the meanwhile I ordered three additional fire-ships to be prepared.

Observing the Imperieuse to advance, and the time of flood nearly done running, the Indefatigable, Unicorn, Aigle, Emerald, Pallas, Beagle, Etna, and gun-brigs, were ordered, by signal, in to the attack; at 2.20 P.M. the former opened her fire upon the enemy's ships aground, and the others as soon after as they arrived up. I then ordered in the Valiant and Revenge to support them, and they soon joined in the action.

The enemy's ship Calcutta struck her colours at 4.10 P.M. and the Ville de Varsovie, and Aquilon, in about an hour afterwards; all three were taken possession of by the boats of the advanced squadron, and set on fire as soon as the prisoners were removed; a short time after Le Tonnére was set on fire by the enemy.

Perceiving, towards the close of day, that there were some of the enemy's grounded ships lying further up towards the Charente, which appeared to be exposed to further attack, I sent

in the three additional fire-ships, and all the boats of the fleet, with Mr. Congreve's rockets, accompanied by the Cæsar and Theseus, under the direction of Rear-Admiral Stopford, with discretional orders, for his acting as he should think fit, and according as circumstances should render it expedient.

On the following day (the 13th) the Rear-Admiral, perceiving that nothing further could be effected by the line-of-battle ships, which had grounded, as had also some of the frigates, and how imminent the danger was in which they lay, and being satisfied that the remaining part of the service could be performed only by frigates and smaller vessels, he most wisely took advantage of a providential shift of wind, and returned with the line-of-battle ships to Basque Road. Captain Bligh, on his return, reported to me, that it was found impracticable to destroy the enemy's three-decked ship, and others, which were lying at the entrance of the Charante, as the former (which was the outer one) was protected by three lines of boats placed in advance from her.

During the remainder of the 13th, the Etna was employed in throwing shells, the Whiting schooner in firing rockets, and the other small vessels in firing upon the enemy's ships on shore, when the tide permitted.

On the 14th, at day-light, I observed three or four of the enemy's ships still apparently aground at the mouth of the river. I ordered Captain Wolfe, of the Aigle, to relieve Lord Cochrane in the Imperieuse, in command of the small vessels advanced, and to use his utmost endeavours to destroy any of the enemy's ships which were assailable. At 2.50 the Etna bomb, and small vessels in shore, began their fire upon the enemy's ships at the entrance of the Charente, and continued to do so during the remainder of the day.

On the 15th, in the morning (the day on which I dispatched Sir H. Neale to their Lordships, in the Imperieuse), three of the enemy's line-of-battle-ships were observed to be still aground under Fouras, and one of them in a dangerous situation; one of their frigates (L'Indienne), also on shore, had fallen over, and the enemy were dismanthng her.

It blew very strong from the westward the whole of the 15th and 16th, so that no attempt could be made to annoy and harrass the enemy; on the latter day their frigate, which was on shore, was discovered to be on fire, and blew up soon after.

All the remainder of the enemy's ships got up the river by the 17th, except one (a two-decker), which remained aground under the Town of Fouras; in the afternoon of this day it was observed, that another of the enemy's frigates had got on shore up the river and was wrecked, which was afterwards confirmed by the Master of a neutral vessel from Rochelle.

On the 19th it blew too violent for any of the small vessels to act against the enemy; but, on the 20th, the Thunder bomb having arrived, and the weather having become more moderate, I sent her to assist the Etna in bombarding the enemy's ship, on shore near Fouras. The Etna had split her 13-inch mortar on the 15th, consequently had only her 10-inch effective;

and the Thunder's 13-inch was also rendered unserviceable, this day, from the same cause.

The following day I went in my boat into the road, on board the Aigle and Pallas, to reconnoitre the enemy's ship abovementioned, and ascertain what further operations could be carried on for her destruction: that evening, and the succeeding days, the wind was too violent and unfavourable.

On the 23d I gave directions to Captain Wolfe to put two of the Aigle's 18-pound long guns into each of the four gun-brigs, and use every means in his power to drive the enemy out of the ship near Fouras, and attempt to set her on fire: the whole of the 24th was employed in this attempt: the 10-inch mortars throwing their shells occasionally, but without success; and, as Captain Wolfe reported to me, that this attack made very little impression upon the enemy, and that the ships and vessels which were advanced above the Boyart Shoal, in order to carry on these operations, were in a situation much exposed to attack from the enemy's gun-boats, &c. I considered any further attempt would be fruitless, and therefore withdrew them from their advanced position.

The enemy's ship continued aground near Fouras until the night of the 28th, when, having lightened her very considerably, and applied great exertion to get her afloat, the spring tides having set in, they succeeded in their attempt, and got her up the river.

Their Lordships will perceive, from the foregoing statement, as well as from their own knowledge of the local situation of the scene of action, that I was obliged to have a second object in view: for besides the destruction of the enemy's ships, the greatest care was required that his Majesty's fleet should not be sacrificed: the state of the tides and wind were most materially to be attended to, and, without reference to the chart of the anchorage nothing can better exemplify the limited space and danger of the navigation, than the circumstance of one of the enemy's line-of-battle ships having, on their fleet entering the roads in February last, run on shore on the shoal of the Palles, and being there totally wrecked.

There are some circumstances mentioned in my letter of the 14th ultimo, which I have not thought it necessary to repeat or enlarge upon.

When it is considered with how little, or comparatively no loss, this most important service has been performed, their Lordships, I am persuaded, will agree with me, that there is great cause for rejoicing at the result of the undertaking.

I have the honour to be, Sir,
Your most obedient humble Servant,
(Signed) GAMBIER.

Copy of a Letter from the Hon. W. W. Pole, *to Captain the Right Hon. Lord* Cochrane, *dated*

My Lord, *Admiralty-Office, 29th May*, 1809.

LORD Mulgrave, having acquainted my Lords Commissioners of the Admiralty, that he had communicated to you the intention

of his Majesty's Government to move the Thanks of both Houses of Parliament to the Commander-in-Chief, and the Officers, Seamen, and Marines of the Fleet employed on the late service in Basque Roads; and that your Lordship had declared that you should feel it to be your duty to oppose any Vote of Approbation to Lord Gambier for his conduct on that occasion; I am commanded by their Lordships to signify their directions, that you state fully to me, for their information, the grounds on which your Lordship objects to the Vote of Thanks being moved to Lord Gambier, to the end that their Lordships may be enabled to judge how far your Lordship's objections may be of a nature to justify the suspension of the intended motion in Parliament, or to call for any further investigation.

I am,
My Lord,
Your Lordship's very humble Servant,
(SIGNED) W. W. POLE.

Copy of a Letter from Capt. the Right Hon. Lord COCHRANE *to the Hon.* W. W. POLE, *dated Portman Square, 30th May,* 1809.

SIR,

I HAVE to acknowledge the receipt of your letter of yesterday's date, signifying the direction of the Lords Commissioners of the Admiralty to me, to state fully, for their information, the grounds on which I object to the Vote of Thanks being moved to Lord Gambier, to the end that their Lordships may be enabled to judge how far my objections may be of a nature to justify the suspension of the intended motion in Parliament.

I have to request, Sir, that you will submit to their Lordships, that I shall at all times entertain a due sense of the honour they will confer by any directions they may be pleased to give me; that in pursuing the object of those directions, my exertions will invariably go hand in hand with my duty; and that to satisfy their Lordships' minds in the present instance, on the point of information, regarding the late service in Basque Roads, I beg leave to state, that the log, and signal log-books, of the fleet there employed, at the period alluded to, contain the particulars of that service, and furnish premises whence accurate conclusions may be readily drawn; that as those books are authentic public documents, and as I must necessarily refer to them as to times and circumstances, any thing that I could offer upon the subject would, to their Lordships, be altogether superfluous, and appear presumptuous interruptions to their Lordships' judgment, which will, doubtless, always found itself upon those grounds only that cannot be disputed.

I have the honour to be, Sir,
Your obedient humble Servant,
(SIGNED) COCHRANE.

To the Hon. W. W. Pole, Secretary
to the Admiralty.

Copy of a Letter from Lord GAMBIER *to the Hon.* W. POLE, *dated*

SIR, *London, 30th May*, 1809.

HAVING in my letter to you of the 10th instant detailed the whole of the proceedings of the fleet under my command in the attack on the enemy in the road of Aix,

I had flattered myself that I should have received some signification of an approbation of my conduct, and have had the gratifying task of conveying to the officers and men under my command, the estimation in which the gallantry and discipline displayed by them upon that occasion were held by his Majesty and their country.

Understanding, however, that there are some doubts whether the fleet is to be so honoured, and feeling that even a doubt upon such a subject cannot be entertained consistently with my reputation as Commander-in-Chief, I request that you will be pleased to move the Lords Commissioners of the Admiralty to direct a Court-Martial to be assembled as early as possible, for the purpose of enquiring into my conduct as Commander-in-Chief, and all the transactions relating to the fleet under my command, from the 17th March last, when the Caledonia, anchored in Basque Roads, to the time of her quitting that anchorage for England, on the 29th ultimo.

I have the honour to be, &c.

(SIGNED) GAMBIER.

State of the Force of the Enemy, transmitted in Lord GAMBIER'S *second Letter to the Hon.* W. W. POLE, *of the 26th March*, 1809.

Statement of the enemy's force moored at Isle d'Aix, anchorage in two lines very near to each other, in a direction due south from the Fort on Isle d'Aix; the ships in each line not further apart than their own length, and the most distant ships of the two lines within point blank shot of the works on that Island.

One three-decker - - - - -	Flag at the fore.
Ten two-deckers (one a fifty-gun ship, late Calcutta),	One flag at the mizen, and one broad pendant.
Four frigates.	

(SIGNED) GAMBIER.

Caledonia, in Basque Roads,
March 26, 1809.

Statement of the names of the enemy's ships in Aix Roads, previous to the attack on the 11th April, 1809; and of the killed and wounded in the action of the 12th of April, 1809.

L'Ocean, 120 guns, Vice-Admiral Allemande, Capt. Reland. Repaired in 1806; on shore under Fouras.

Foudroyant, 80, Rear-Admiral Gourdon, Captain Henri. Five years old; on shore under Fouras.

Cassard, 74, Capt. Faure, Commodore. Three years old; on shore under Fouras.

Tourville, 74, Capt. La Caille. Old; on shore in the river.

Regulus, 74, Capt. Lucas Five years old; on shore under Madame.

Patriote, 74, Capt. Mahee. Repaired in 1803.

Jemappe, 74, Capt. Fauvan. On shore under Madame.

Tonnérre, 74, Capt. Clement de la Ronciere. Nine months old; never at sea.

Aquilon, 74, Capt. Maignon. Old.

Ville de Varsovie, 80, Capt. Cuvillier, New; never at sea.

Calcutta, 56, Capt. la Tonie. Loaded with flour and military stores.

FRIGATES.

Indienne, Capt. Proteau. On shore near Isle d'Enet, on her beam-ends.

Elbe, Capt. Perrengier.

Pallas, Capt. Le Bigot.

Hortense, Capt. Allgand.

N.B. One of the three last frigates on shore under Isle Madame.

Return of the killed, wounded, and missing:—Two officers, eight men, killed; nine officers, 28 wounded; one man missing. Total,—48.

GAMBIER.

Return of the names of Officers killed, wounded and missing.

Caledonia, Mr. Fairfax, Master of the fleet; contusion of the hip.

Cæsar, W. Flintoft, Acting-Lieut.; killed.

Theseus, R. F. Jewers, Master's-Mate; severely wounded in the head and hands by powder in the fire-ship.

Imperieuse, Mr. Gilbert, Surgeon's Assistant; wounded; Mr. Marsden, Purser; ditto.

Revenge, J. Garland, Lieut.; severe contusion of the shoulder and side.

Mediator, J. Segess, Gunner; killed.

J. Wooldridge, Capt.; very much burnt.

N. B. Clements, Lieut.; slightly burnt.

J. Pearl, Lieut.; ditto.

N.B. The last three blown out of the Mediator after she was set on fire.

Gibraltar, J. Conyers, Master's-Mate; very badly scorched in the face and hands.

GAMBIER.

Received since the above was written.

Etna, R. W. Charston, Midshipman, slightly wounded.

Judge Advocate to the President---These, Sir, are all the letters which have been sent to you, either with the order, or since, by the

Admiralty. Lord Gambier will have the goodness to deliver to the Court all the orders he received from the Admiralty while upon this service. Mr. DYER, of the Admiralty, attends with one document (the letter of the 26th of March, directing Lord Cochrane to be employed in conducting the fire-ships); I will read it from the original, and take the attested copy, as we cannot detach that from Admiral Harvey's Court-Martial.

Orders and Letters delivered in by Mr. Lavie, on the part of Lord Gambier:

By the Commissioners for executing the office of High-Admiral of the United Kingdom of Great Britain and Ireland, &c.

YOUR Lordship is hereby required and directed to put to sea without a moment's loss of time, with the ships named in the margin,* together with any frigates, or small vessels, under your Lordship's command, that may be ready for sea, at Plymouth, and proceed, without a moment's delay, off Rochefort, in order to form a junction with the Hon. Rear-Admiral Stopford, commanding his Majesty's squadron off that port.

If the enemy's squadron should have put to sea from Rochefort, and the Rear-Admiral should have proceeded in pursuit of it, your Lordship is, in case you should not receive any intelligence from him of his intended proceedings, to make the best of your way, in the first instance off Cape Finistèrre, sending a frigate to look into Ferrol and Corunna, in order to ascertain whether the enemy's squadron had entered either of those ports; and failing to gain information of the Rear-Admiral, or of the enemy, you are to proceed off Cadiz, looking into the Tagus, in your way thither; and not gaining there any intelligence of the enemy, you are, if you shall have reason to suppose that they have not entered the Mediterranean, to return, without loss of time, to Cawsand Bay, detaching, under Rear-Admiral Harvey, such ships as you may think necessary to watch the port of L'Orient.

In the event of your gaining intelligence of the enemy's ships having passed up the Mediterranean, your Lordship is to detach the whole of your squadron, with orders to the senior officer, to

* *Caledonia, Tonnant, Implacable, Resolution, and Bellona.*

fall in with Vice-Admiral Lord Collingwood, returning yourself in the Caledonia to Cawsand Bay; and should your Lordship have reason to suppose, from the intelligence you may procure, that Rear-Admiral Stopford has followed the enemy's squadron to the West Indies, you are to use your best endeavours to communicate the same to Vice-Admiral Sir John Duckworth, with orders for him to return to Cawsand Bay.

In the event of your Lordship finding, on your arrival off Rochefort, that the Vice-Admiral should have formed a junction with Rear-Admiral Stopford, and that the enemy's ships should be still in that port, you are to send such ships as you may not require to blockade them to Cawsand Bay, and should your Lordship find that the two squadrons have formed a junction, and proceeded in pursuit of the enemy, you are to return yourself to Cawsand Bay, leaving in either case, under the command of Rear-Admiral Harvey, a sufficient force to watch the enemy's ships in L'Orient,

In case the Bellona should not have arrived at Plymouth, when the remaining ships shall be ready to sail, your Lordship is not to wait for the said ship, but to leave orders for her Captain to follow you without delay.

Given under our Hands, 1st March, 1809,

(Signed) R. BICKERTON,
Wm. JOHNSTONE HOPE,
R. WARD,
Wm. DOMETT.

By command of their Lordships,
W. W. POLE.

To the Right Hon. Lord Gambier,
Admiral of the Blue, &c.

(COPY) (MOST SECRET.)

My Lord, *Admiralty-Office, March* 19, 1809.

I AM commanded by My Lords Commissioners of the Admiralty to acquaint your Lordship, that they have ordered twelve transports to be fitted out as fire-ships, and to proceed and join you off Rochefort; and that Mr. Congreve is also under orders to proceed to your Lordship in a coppered transport (the Cleveland) containing a large assortment of rockets, and supplied with a detachment of marine artillery instructed in the use of them, and placed under Mr. Congreve's orders; that the bomb-vessels are likewise under orders to fit for sea with all possible expedition, and to join you as they may be ready; that all these preparations are making with a view to enable your Lordship to make an attack on the French fleet at their anchorage off Isle d'Aix, if practicable; and I am further directed to signify their Lordship's direction to you, to take into your consideration the possibility of making an attack upon the enemy, either conjointly with your line-of-battle ships, frigates, and small craft, fire-ships, bombs, and rockets; or separately by any of the above-named means.

You are to man the fire-ships with volunteers from the fleet, entrusting the said ships in charge of officers of the rank of commander, who may happen to be present, and shall volunteer their services on this occasion: but as it is not likely there will be officers sufficient of that rank to command all the fire-ships, you are to make up the deficiency by such Lieutenants of the line-of-battle ships as shall volunteer their services, giving the preference to the First Lieutenants; and when the said fire-ships are manned by volunteers from the fleet, you are to cause their original crews to be received on board the ships of your fleet; and in the event of the said fire-ships being destroyed, you are to send home the said men, in order to their being discharged, furnishing them with such certificates or protections as shall secure them from being impressed into his Majesty's service: you are also to hold out to the volunteers and the officers to whom the command of the fire-ships may be entrusted, every expectation of reward, in the event of success.

It is their Lordships' further direction, that you state to me, for their information, whether any further augmentation of force, of any description, is in your opinion necessary to enable you to perform this service with full effect, that it may be prepared and forwarded to you without a moment's delay, their Lordships having come to a determination to leave no means untried to destroy the enemy's squadron.

In order to give your Lordship every information on this important subject; my Lords have directed me to enclose to you, a copy of a paper, drawn up by Sir Richard Keates, proposing a mode of attacking an enemy's squadron under Isle d'Aix.

I have the honour to be,
My Lord,
Your Lordship's most obedient humble Servant,
(Signed) W. W. POLE.

P.S. The fire-ships are expected to sail from the Downs to-morrow; and the rocket-ship from the Nore about the same time. Six additional transports are ordered to be forwarded from Plymouth to your Lordship; and the Board of Ordnance are desired to send a ship with combustible matter, sufficient to fit the said transports as fire-ships; and also to put on board her an assortment of carcases for 24-pounders, and of Valenciennes Composition: to be used at your Lordship's discretion.

To Admiral Lord Gambier,
off Rochefort.

Letter to the Commissioners for the Transport Service, inclosed in the preceding.

(COPY.) (MOST SECRET.)

GENTLEMEN, *Admiralty, March* 18, 1809.

LORD Mulgrave having laid before the Board the Petition of the Masters of the Transports fitting as fire-ships at Sheerness, transmitted to his Lordship by Sir Rupert George, I have received their Lordships' commands to acquaint you, that you are at liberty to give an assurance to the Masters as follows:—

1st. That if their ships should be destroyed, their crews will be protected and sent to England.

2dly. That the crews will be remunerated for any clothes, or otherwise, which they may sustain by the destruction of the said ships.

3dly. That if any of the crews are wounded in the service on which they may be employed, they will receive the same pensions, smart money, and other advantages, as the seamen on board his Majesty's ships.

You will also explain to the Petitioners, that it is intended that their ships when they go upon service should be manned by the seamen from his Majesty's ships; and that therefore it is not probable that any of the seamen belonging to the transports should require the provisions proposed in the third requisition of their petition.

I am, Gentlemen,
Your most humble servant,
(SIGNED) W. W. POLE.

Situation of the Enemy's Squadron under Isle d'Aix (23d April, 1807), with proposed Mode of Attack, inclosed in the preceding.

THE Enemy's squadron under Isle d'Aix, which consisted of one three and four two-decked ships, is moored completely under cover of the cannon of the island, in a narrow channel, very close together, and with strong fasts passed from ship to ship, which would enable them to direct their fire to almost any point. Such a situation must doubtless be considered as a very strong defensive one, and though subject, as I conceive, to be destroyed by a superior naval force, it seems doubtful whether, without taking the island, the attacking ships could be brought off afterward. Not possessing any knowledge of fortification, I do not feel myself capable of giving an opinion of the practicability of carrying the island. The fortifications are generally said to be strong: one part is insulated. To appearance, it has, at times, been left with a weak garrison, though its established garrison force, I have been assured, is considerable.

Forming a judgment, as well from observation as the best charts, I am of opinion (especially as the enemy has no floating batteries moored in advance) that their squadron is exposed to an attack of bombs, fire-ships, and rockets; and that if a serious attack of this nature was made, covered and protected by a squadron, I conceive the enemy must determine to move from this situation to defend himself—to quit it with a view to take up a less dangerous anchorage at the mouth of the Charante, which would leave the road at our mercy to sink vessels in it; or, by remaining, submit to see some of their numbers at least, destroyed at their anchors. Success, more important than any I have ventured to predict, might possibly result from it; and even if the event should prove that I have too strongly anticipated, no disgrace, it should seem, could result from an attack on an enemy in his own port.

Was an attack, such as I have suggested, to be adopted, I presume it would be advisable to employ force every way competent to the undertaking; and as the assailants must expect to be opposed by a strong gun and mortar-boat force, and to be assailed perhaps by fire-ships and fire-rafts in turn, a pretty considerable frigate and gun-brig force would be requisite to maintain a position above the Boyart; which would, in my opinion, be indispensable for the success of the undertaking.

Bombs and gun-brigs, employed on this service, should be manned for this spurt of service beyond their usual complements; should be furnished with an additional kedge anchor and hawser for warping; and provided with boarding-netting, and defences of that nature; for if the enemy found himself much pressed, I should apprehend he would make some vigorous efforts to board. Care should be taken that the gun-brigs so employed should have their long bow guns on board, for it is customary with those that cruise to leave them behind: and that class which have been in the custom of throwing 8-inch shells from 68-pounder carronades, would be particularly serviceable. Perhaps a number of small vessels, prepared as fire-ships, and provided with chains, to chain them in pairs, would be preferable to a few regularly fitted fire-ships. The chains need not be of very large dimensions, no more than 50 fathoms in length. The boats of the squadron would necessarily be employed with the fire-ships, &c. and I should propose keeping the squadron as close to the Isle d'Aix with easterly, and to the Boyart with westerly winds, as possible, in order that it might be in constant readiness to act decisively, should an opportunity present itself.

(Signed) R. G. KEATS.

London, April 23, 1807.

Original produced by Mr. Dyer, *from the Proceedings on the Trial of Rear-Admiral* Harvey.

My Lord, *Admiralty-Office, 25th March*, 1809.

MY Lords Commissioners of the Admiralty having thought fit to select Captain Lord Cochrane for the purpose of conducting, under your Lordship's directions, the fire-ships to be employed in the projected attack of the enemy's squadron off Isle d'Aix, I have their Lordships' commands to signify their direction to you to employ Lord Cochrane on the above-mentioned service accordingly, whenever the attack shall take place; and I am to acquaint you, that the twelve fire-ships, of which you have already had notice, are now in the Downs in readiness, and detained only by contrary wind; and that Mr. Congreve is also at that anchorage, with an assortment of rockets, ready to proceed with the fire-ships.

I am also to acquaint you that the composition for the six transports, sent to your Lordship by Admiral Young, and one thousand carcases for 18-pounders, will sail in the course of three or four days, from Woolwich, to join you off Rochefort.

Admiral Lord Gambier, &c. &c. &c.

I have the honour to be, &c.
W. W. POLE.

(SECRET.)

Admiralty-Office, 5th April, 1809.

My Lord,

I have received, and laid before my Lords Commissioners of the Admiralty, your Lordship's two letters, No. 70 and 71, dated the 26th ultimo; and, in reply, I am commanded to acquaint your Lordship, that the Intelligent and Encounter have been ordered to join you from Plymouth; and, that Sir Roger Curtis is also directed to send four gun-brigs to join you without a moment's delay; which will make the reinforcement of six gun-brigs you have desired. Their Lordships have, however, commanded me to inform you, that it is of considerable importance to the public service, that these six gun-brigs should be returned to Plymouth and Portsmouth, for the protection of the trade, as speedily as possible; and, they are in consequence pleased to direct, that you order them back the moment you can spare them; without, however, thereby intending that any sacrifice should be made of the paramount service of destroying the enemy's fleet, in aid of which they are sent, and for the accomplishment of which, exclusively, they have been withdrawn from the convoy service.

The Thunder and Vesuvius will sail from the Nore to join your Lordship in a day or two; the other bomb-vessels, that it was intended to send you, cannot be got ready in time.

In reply to the last paragraph of your paper (No. 71); I am commanded to acquaint you, that my Lords are perfectly satisfied that you will do every thing in your power with the force under your command for the destruction of the enemy's ships; and that their Lordships' directions (as signified in my letter of the 19th ultimo), were given with a view of leaving any attack which might be made thereon to your own discretion; considering your Lordship to be best able to form a judgment of the practicability thereof, from being on the spot, and seeing the situation of the enemy's force, and the dispositions they may have made for their protection.

I have the honour to be,
My Lord,
Your Lordship's most obedient humble Servant,
(SIGNED) W. W. POLE.

Admiral Lord Gambier,
&c. &c. &c.

By the Commissioners for executing the office of Lord High-Admiral of the United Kingdom of Great Britain and Ireland, &c.

HAVING ordered the ships named in the margin* to join you without loss of time, with a view to enable your Lordship to detach four sail of two-decked ships to cruise in such situation as you may judge most advisable, for the purpose of endeavouring to intercept the enemy's squadron which escaped from

* *Dreadnought, Temeraire, St. George, Christian VIIth, Achille, Warspite, Impetueux.*

L'Orient about the latter end of February last, in the event of its attempting to return to that port; and also four other two-decked ships, to cruise in the situation you shall judge most eligible for intercepting the enemy's said squadron, in case it should try to get into Brest; attaching to each of those squadrons as many frigates and smaller vessels as your Lordship can spare from other services. Your Lordship is therefore hereby required and directed, as soon as you have the means of so doing, to make detachments accordingly, with instructions to the senior officers thereof, to cruise diligently on the stations respectively allotted them, spreading their squadrons as much as may be prudent, consistently with the state of the weather, and executing every means in their power to get sight of, and to intercept, the enemy's said squadron, in case of its trying to enter either of the ports of Brest or L'Orient. They are to continue on this service until they receive further orders, or shall procure such satisfactory information of the enemy as shall authorise them to rejoin your Lordship.

Your Lordship will likewise give such directions as you may consider expedient to any of your detached cruizers which, from their situations, may be likely to fall in with the enemy's ships, for pushing to the two squadrons before-mentioned, to give notice of their approach or situations.

Given under our hands, 14th April, 1809,

(Signed) MULGRAVE,
C. BICKERTON,
Wm. DOMETT,
R. MOORSON.

By command of their Lordships,
W. W. POLE.

To the Right Hon. Lord Gambier,
Admiral of the Blue, &c.

Admiralty-Office, 19th April, 1809.

My Lord,

I AM commanded by my Lords Commissioners of the Admiralty to acquaint you, that the ships named in the margin * have been ordered to cruise between the latitude of 39 deg. and 45 min. north, and 32 deg. and 37 min. west, for the protection of the trade of his Majesty's subjects, and for the purpose of endeavouring to intercept the L'Orient squadron on their return to Europe; and that your Lordship is not to consider the said ships as any longer under your command.

I am further commanded by their Lordships to acquaint you, that it is their intention you should send the squadron off L'Orient directed by their order of the 14th instant, but that the squadron, which by the said order you were directed to send off Brest, need not be detached by your Lordship; my Lords proposing to send four sail of the line to that station, so soon as they can be got ready, with orders to their Commanders to re-

* *Impetueux, Defiance, Christian VII. Warspite.*

main there for the purpose of intercepting the L'Orient squadron, and to consider themselves as being under your Lordship's command while they are employed on that service.

I have the honour to be,
My Lord,
Your Lordship's most obedient humble Servant,
(Signed) W. W. POLE.

Admiral Lord Gambier.

My Lord, *Admiralty Office, 22d April*, 1809.

I RECEIVED yesterday, by Sir Harry Neale, and lost no time in laying before my Lords Commissioners of the Admiralty, your Lordship's letter of the 14th instant, together with its inclosures; and I am, in reply, commanded by their Lordships to congratulate you on the brilliant success of the force under your command, in the attack of the enemy's ships in Isle d'Aix Roads by fire-vessels, and subsequently by detachments from your fleet, which terminated in the capture and destruction of four of the enemy's ships; and to signify their Lordships' direction to you to express their approbation of the great exertions of Rear-Admiral Stopford, Sir Harry Neale, and the several officers mentioned by your Lordship as having been most actively employed, and having particularly distinguished themselves upon this important service.

Their Lordships considering that the state of the enemy's force, in consequence of the brilliant success of the fleet under your command, is now so much reduced as to render your further presence unnecessary, have commanded me to direct you to proceed to Spithead in the Caledonia.

I am further commanded to acquaint your Lordship, that my Lords have ordered Rear-Admiral Sotheby to proceed in the ship bearing his flag off L'Orient; and I am to signify their direction to you, to detach the four ships named in the margin* to join the Rear-Admiral on that station, the said squadron being intended to carry into execution their Lordship's order of the 14th, and their further directions contained in my letter of the 19th instant. You are to leave Rear-Admiral Stopford, with the remainder of the ships and vessels now off Rochefort, in the command at that station, with orders to keep a close watch upon the enemy's force, and to seize every opportunity that may offer for attempting to complete their destruction.

My Lords are the more desirous that your Lordship should lose no time in repairing to Spithead, as your presence may accelerate the arrangements for the Court-Martial on Rear-Admiral Harvey.

I have the honour to be, my Lord,
Your Lordship's most obedient humble servant,
(Signed) W. W. POLE.

P.S. Rear-Admiral Sotheby is directed to follow such orders as he may receive from your Lordship. W. W. P.

* *Defiance, Bellona, Illustrious, and Gibraltar.*

Judge Advocate---These are all the papers, I believe, which it will be necessary to read. If you please, we will now have the Masters to produce the Ships Logs of the Caledonia, Cæsar, Imperieuse, and Beagle.

President---You had better have the Master of the Caledonia first.

Mr. THOMAS STOKES, Master of the Caledonia, sworn.

Examined by Mr. Bicknell.

Q. Be pleased to produce the log-books of his Majesty's ship Caledonia.

(The Witness produced them.)

Q. Were the contents of these books written by you, or under your daily inspection; and are the contents of them true to the best of your knowledge or belief?

A. They were written by one of the Mates, under my inspection, and to the best of my knowledge and belief they are correct.

Q. You made your daily inspection?

A. Yes: sometimes I was acting out of the ship, in fire ships, for several days; those days I did not inspect them.

Q. You inspected them while the circumstances were within your recollection?

A. Yes, certainly.

Q. Produce a sketch or drawing of the anchorage at Isle d'Aix, with the relative situations of the British and French fleets, and other particulars on and previous to the 12th of April last.

(The Witness produced it.)*

Q. Did you prepare this drawing, and from what documents, authorities, and observations; and are the several matters and things thereon delineated accurately described, according to the best of your judgment and belief?

A. I prepared that drawing partly from the knowledge I gained in sounding to the southward of the Palles shoal, and the anchorage of the Isle of Aix; the outlines of the Chart are taken from the Neptune Français; and the position of the enemy's fleet from Mr. Edward Fairfax and from the French Captain of the Ville de Varsovie; and the British fleet from my own observations.

* *See the two Plans corresponding with that produced by Mr. Stokes, which accompany this Publication.*

Q. Are the matters and things therein delineated accurately described according to the best of your knowledge and belief?

A. They are. There is one thing it may be necessary to explain respecting this chart: it cannot be expected, that from the opportunities I had of sounding in this place, I could accurately point out the distance between the sands: therefore, for any thing respecting that, I must refer the Court to the chart which I copied from a French manuscript, which will be produced here; and that I take to be correct.

PRESIDENT—There was a large chart you lent me?

A. Yes; that is the chart I allude to; this chart I produce as containing the various positions.

JUDGE ADVOCATE—This chart is produced to save a great deal of trouble, as to the relative situation of the two fleets.

PRESIDENT—I should think you had better finish the documents of the Caledonia now, by calling in Mr. Hockings.—Q. Does your Lordship wish to ask Mr. Stokes any question now?

LORD GAMBIER—Not at present, Sir; I should wish to ask by-and-by.

PRESIDENT—This is merely documentary—it may be better to complete this first.

LORD GAMBIER—I shall not want him to-day.

[The Witness withdrew.

Lieutenant ROBERT HOCKINGS, of the Caledonia sworn.

Examined by Mr. Bicknell.

Q. Were you Signal-Lieutenant on board his Majesty's ship the Caledonia?

A. I was.

Q. Be pleased to produce the signal-log of that ship.

A. This is it. *(producing it.)*

Q. Were the contents of it written by you?

A. No; they were not; they were written under my direction.

Q. The contents were written by you, or under your direction?

A. They were; they were written by the Mate of the Signals under my inspection.

Q. Are the contents of them accurate and true, to the best of your knowledge and belief?

A. Yes; they are, to the best of my knowledge.

PRESIDENT—Your Lordship wishes to ask no question at present of Mr. Hockings?

LORD GAMBIER—None, at present.

[The witness withdrew.

Mr. JOHN SPARLING, Master of the Imperieuse, sworn.

Examined by Mr. Bicknell.

Q. Produce the log-book of his Majesty's ship the Imperieuse.

(It was produced.)*

Q. Were the contents of it written by you, or under your inspection?

A. By myself.

Q. Are the contents of it accurate and true, to the best of your knowledge and belief?

A. Yes.

President—I remember to have sent for you upon that log, and you told me, that there were some of the circumstances which you wrote down, but that you did not observe the transactions every one of them yourself, because you were employed upon other duties?

A. I did.

President—Then I should think you should qualify that in your reply; you did say to the best of your belief; but I thought it proper to mention, that being employed upon such a variety of services, you were not actually and visibly a witness to the things that are there noted?

A. Yes; I was employed most part of the time in other things.

Mr. Bicknell—From whom did you obtain your information?

A. I noted them down at the time on other slips, and then copied them in afterwards.

Q. Then it is all from your own observation?

A. Yes: it is.

President—I thought it proper to mention this; it having been stated to me, when I sent for him; the log not being signed.

Admiral Stanhope—I should wish to know how that is taken down?

Judge Advocate—He says, it is accurate to the best of his knowledge and belief: I was about to add something, but he added, that he took memoranda at the time, and entered them afterwards.

A. I carried the things in my mind, and entered them afterwards.

Cross-examined by Lord Gambier.

Q. Have you made any alteration in it, or addition to it, before or after your arrival in England, or do you know that any such have been made by any other person?

A. None: to the best of my knowledge.

* *See Copy of the Proceedings of the* 11*th*, 12*th*, 13*th*, 14*th*, *and* 15*th of April in the Appendix.*

President—Have you cast your eye over it since the transaction took place; and did you observe that any other person had made alterations in it?

A. I have looked over it several times; but I never suffered it to be in the hand of any other person but myself.

Admiral Stanhope—I cannot help observing, that there appear to have been some very important omissions, which are afterwards entered in several parts—several very material circumstances.

Lord Gambier—Do you recollect going on board the Indefatigable, in the month of May last, in Plymouth Sound?

A. I do.

Q. Do you remember asking for a sight of that ship's log?

A. I do.

Q. For what purpose, and by whose orders did you do so?

A. For my own information.

Q. By no person's order?

A. No.

President—Was it by any person's order, or by any person's suggestion?

A. No.

Admiral Stanhope—Then you mean to say, it was merely from your own desire, and not from the suggestion or intimation of any person whatever?

A. Entirely so.

Lord Gambier—Do you recollect attempting to make a copy of that ship's log, and being interrupted by the first Lieutenant, who forbade your doing so, and took the log from you?

A. I recollect wanting to take a memorandum out, of the length of time she was in action, and the first Lieutenant said I had better not do it, as he did not think it would be of any service; at the same time adding, that he could not suffer it without Capt. Rodd's leave; and I said at the same time it was immaterial.

Q. Then you made no alteration in the Imperieuse log after that?

A. No, not any.

Admiral Douglas—Did you, upon your return to the Imperieuse, report any observations you had made in the ship's log you had been visiting, to any officer in that ship?

A. Not any.

Lord Gambier—Or to any officer belonging to her?

A. Not any.

Admiral Stanhope—Did you confer with your Captain, Lord Cochrane, upon your going on board the Indefatigable for the purpose before mentioned, or was it directly or indirectly with his Lordship's knowledge and privity?

A. I do not know that his Lordship knew any thing of it.

Q. Do you mean distinctly to say that he did not know any thing of it?

A. I do not know that he did, if Captain Rodd told him any thing of it I cannot say.

Q. The question is—previous to your going?

A. I did not tell him of it.

President—The question put is, whether before you did go to inspect the log of the Indefatigable, Lord Cochrane had the knowledge of your intention so to do?

Admiral Stanhope—Yes, either directly from you, or indirectly by any other means whatever?

A. I do not know, I went of myself, I had no communication with his Lordship on the subject; his Lordship went to town on the 21st of April, and left his ship.

Admiral Stanhope—You have said in your evidence, that you went on board the Indefatigable to know what length of time she was in action; you must have had some motive for that—what was you motive for wishing to obtain that information?

A. I only wished to satisfy my own mind as to the length of time she was in action; the time she commenced and the time she ended: I thought she was a long while before she commenced with us: I might have gone on board any other ship probably, merely for my own information, for I always wish to gain information; I did not think there was any impropriety in it.

Judge Advocate—What was your motive for wishing to obtain that information?

A. Merely to satisfy my own mind how long she had been in action: as I was not on deck when she commenced firing, I merely asked the Lieutenant to allow me to look at the log; I went on board that ship because I was acquainted with Lieutenant James, and thought I could ask him the question more freely than any other person; I was merely on a visit to him, and asked him the question; I had been acquainted with him eight or nine years.

Admiral Stanhope—I understood this gentlemen to say he might have gone to any ship as well as the Indefatigable: now I understand you to say you went because of a particular acquaintance.

A. I might have gone to any other ship where I had an acquaintance to ask the question; but being there I asked the question.

Judge Advocate—Had you an intention to ask the question before you went on board?

A. I had certainly; going to see Lieutenant James, I took the opportunity of asking the question which I had intended.

President—When was it that you made this visit on board the Indefatigable, and where?

Judge Advocate—Lord Gambier's question applies to these particulars.

Lord Gambier—This was about a month after the action took place, was it not?

A. It was when she was refitting in Plymouth Sound.

President—It has been observed, that in the afternoon log of the 12th of April, there are several insertions not in the body of the log, but in the columns for courses and wind, and so on; how did it happen that there are in the log of the afternoon of the 12th of April, insertions of material events or circumstances in the columns for winds and courses, and not in the body of the log?

A. After the action was over, I received orders from Captain Lord Cochrane to proceed with the boat and ascertain the depth of water between the Imperieuse and the French Admiral's ship Ocean, which occupied my time until it was quite dark; on my return I wrote such part of the transactions relative to the action as were then in my memory; I then having the middle watch, looking over my log-book, as I might not have an opportunity of filling it up the next day, found that I had omitted these things which are inserted in the column for winds and courses, such as the killed and wounded for instance.

President—No: you need not mention those respecting the killed and wounded, but what I allude to are those respecting the events which took place—can you recollect what it is you inserted?

A. No, I cannot exactly, but I believe it is inserted above the killed and wounded; there may be something else, I cannot recollect exactly what it is.

Q. There is one fact inserted, which from the place in which it is inserted, one should suppose was about one o'clock, do you recollect what circumstance it was?

A. It was on running in.

Q. You have no recollection of what next follows in the margin?

A. I have not; that circumstance referred to I recollect relates to the ship getting under weigh; I was then about getting the anchor up.

President—Has any thing occurred, Lord Gambier, that would induce you to put any other question to this witness?

Lord Gambier—No, not any.

[The witness withdrew.

Mr. Samuel Raven, Master of the Cæsar, sworn.

Examined by Mr. Bicknell.

Q. Produce the ship's log of the Cæsar.

(It was produced.)

Q. Was it written by you, or under your inspection?

A. It was written under my inspection.

Q. Are the contents of it authentic and true, according to the best of your knowledge and belief?

A. Yes.

Q. You have carefully read it over, have you?

A. Yes, I have.

JUDGE ADVOCATE—The Signal Officer of the Cæsar is not here.

PRESIDENT—No, but I believe it will be found that the signals are entered in the ship's log.

A. No: that custom has not been followed in the time of Sir Richard Strachan, nor has it, I believe, in Rear-Admiral Stopford's command: they are examined by the signal-officer.

JUDGE ADVOCATE—You do not consider it to be material to produce the signal log?

PRESIDENT—Is there any person to verify it?

JUDGE ADVOCATE—No: I do not apprehend Rear-Admiral Stopford can speak to every signal which is inserted.

PRESIDENT—The Caledonia's own signal log is as complete as any thing can be in every respect.

JUDGE ADVOCATE—Then we will proceed to the Beagle.

[The witness withdrew.

Mr. JOHN THOMPSON, Master's Mate of the Beagle sworn.

Examined by Mr. Bicknell.

Q. That is the Beagle's log?

A. Yes it is.

Q. Were the contents of it written by you?

A. Yes, they were.

Q. Are the contents of it accurate and true, according to the best of your knowledge and belief?

A. They are.

PRESIDENT—This log was written by yourself?

A. Yes.

Q. Are the signals inserted in it?

A. Yes: they are?

Q. And you say, upon your oath, that you believe every thing in it to be correct?

A. Yes.

Q. I see here, that in the column of week days and winds and hours, in the margin of the log it is said,—At half past eight, Imperieuse made telegraph signal of seven of the enemy's ships aground—Imperieuse made signal possible to destroy the enemy—Imperieuse made signal, the enemy are preparing to heave off. How does it happen, that this is inserted in the margin of the log amongst the columns, and not in the body of the log?

A. I wrote that at the same time the log was written.

Q. Why did you not put it in the body of the log in the narrative?

A. I made a mistake in copying it from the log-board. I left it out, and afterwards inserted it when I found my mistake.

PRESIDENT—I should wish to have the question inserted in the minutes. How does it happen, that an insertion of very material circumstances, stated to have occurred at half past eight A.M. on the 19th of April, was made in the marginal columns, instead of the body of the log.

A. In copying from the log-board, I missed those signals; and after reading over the log board again, I copied them into the columns of week-days.

Q. Who wrote the log-board—who kept the account of events on the log-book?

A. The Master: and I copied it into the log.

Q. Is this your hand-writing?

A. Yes, it is.

Q. Were the events recorded in this log-book, which you say you wrote yourself, inserted therein, day by day, as the circumstances occurred, or is this a copy of any other log-book that was kept at the time?

A. No: it was written from the log-board every day at twelve o'clock at noon.

Q. This book was filled up day by day, as the circumstances occurred?

A. Yes.

Q. Have I been fortunate enough to express myself clearly to you?—my question was, whether or not there was another log kept that was written according to the circumstances; sometimes in bad weather; sometimes in good weather; sometimes in the midst of hurry, in the transaction of business and action, and those sort of things; was this log-book written under such circumstances, and the events recorded written day by day, as those circumstances occurred; or, is this a transcript of any other blotted, blurred, coarse log-book, that you thought would not look so well before the Court?

A. No.

Q. Were these things written day by day, as they occurred?

A. Yes: every thing was written every day at twelve o'clock.

Q. Then what is called the log of the 6th of April, was written on the 6th of April?

A. Yes.

Q. And what is inserted here, as of the 7th, was written on the 7th, in this book?

A. Yes.

Q. Is this the identical book into which it was copied from the board?

A. Yes.

Q. And there never was any other log-book kept?
A. No.

Q. Who kept this?
A. I kept it myself.

PRESIDENT—It is written so fair and so neat, that it bears every mark of being a fair copy.

JUDGE ADVOCATE—I tell the Gentleman, I am sure no imputation is meant upon him.

PRESIDENT.—No; not the least: but it is kept so neatly and so well, that I really thought this must be a fair copy taken from the original log, which is generally blotted and blurred. I meant not the most distant imputation upon the witness. Would Lord Gambier wish to ask any question of the witness?

LORD GAMBIER—No: I have none.

JUDGE ADVOCATE—We propose now to call my Lord Cochrane.

Captain the Right Hon. Lord COCHRANE, sworn.

Examined by Mr. Bicknell.

Q. Was your Lordship entrusted, under the direction of Admiral Lord Gambier, with the conduct of the fire-ships and other vessels to be employed in the attack of the enemy's squadron off the Isle d'Aix, in April last?
A. I was.

Q. On what day did your Lordship arrive in the Imperieuse, and join the Admiral in Basque Roads?
A. It is marked in the log of the Imperieuse, which I have in my pocket. In my own private log, which, as it is a copy of what I wrote myself, I therefore can vouch for. I cannot swear to this log *(the ship's log)*, because I did not write it myself; it appears here to be on the 3d of April, but as to the day I really cannot be positive; I think from my recollection that was the day.

Q. What was the strength of the enemy's fleet at that time, and in what direction was it moored, and in what manner defended and protected by the works in the Isle d'Aix, and by the shoals at the entrance of the harbour?
A. The enemy's fleet appeared to consist of nine sail of the regular line, besides one ship of three decks, and the Calcutta, a 50 gun ship, four frigates, and there was another large vessel; I do not know what she was, she appeared to be a large merchant vessel or store-ship. They appeared to be moored, as near as I could judge, north and south, or nearly so: I thought at first they inclined considerably more to the north-east and south-west; they were defended by their own cannon, the vessels being in a very strong position; they were flanked towards the north by thirteen cannon in the Isle d'Aix, besides the mortars on that Island; the frigates were stationed to the south-east of them,

apparently for the purpose of flanking the other side of them, and as a protection against boats or fire-vessels between Aix and the Boyart. I do not know of any shoal; the water is not steep at Aix, but shelves gradually off at the entrance of the harbour.

Q. At what distance from the enemy, and in what direction was the British squadron moored on the evening of the 11th of April, immediately previous to the attack by the fire-ships, and what was its strength; and was the anchorage or position taken by the Commander-in-Chief, in your judgment, properly chosen for observing the motions and proceedings of the enemy's ships, and for carrying into effect the plan for their destruction; and how were the wind and tide at that time?

A. I think that would be better explained by the positions put upon paper, than merely stated; I have put it down upon this plan.

(His Lordship delivered in a plan.)

Lord Cochrane—Does the expression *enemy* here, mean the ships of the enemy?

Judge Advocate—The ships of the enemy.

A. To the best of my judgment, the British fleet were distant from the French between eight and nine miles—I think nine.

Q. Was that the first position of the English fleet when your Lordship arrived, or afterwards?

A. I mean between the time of my arrival, and until the morning of the 12th of April. I believe that the British squadron unmoored that night, but I do not from my own knowledge know it. The position chosen by the Commander-in-Chief was a very good position for blockading the enemy, and for observing any material movement of their squadron. Having already mentioned my opinion of the distance, it must be obvious, that the destruction of the enemy could not be effected, while in that position, by the ships there placed, as already mentioned—the wind was not the same on the evening of the 11th, as it was on the morning of the 12th. At eight o'clock, on the evening of the 11th, the wind must have been about due north, I think; I did not take exactly the point of the wind, but I think it must have been thereabouts; the tide, at the same hour, began to run towards the south-east.

Mr. Bicknell—You have not mentioned the strength of the British squadron, which is part of the question?

A. I believe there were eleven sail of the line (but I cannot speak positively), besides frigates and brigs, and one bomb.

President—You said the tide began to run to the south-east: is that the commencement of the flood?

A. I believe it just began at that time.

Q. The flood tide makes to the south-east?

A. Yes: it does: and I think it had just began to run—it might be about ten minutes, or a quarter of an hour.

Q. Did it appear to your Lordship, that the Admiral gave every assistance in his power, towards carrying into effect such

propositions as your Lordship made to him, for preparing, arranging, and sending the fire-ships against the enemy?

A. Every possible assistance, as well as Admiral Stopford and the Captains of the fleet.

Q. Were the frigates and other small vessels, which were advanced previous to the attack on the 11th, properly placed by the Commander-in-Chief, for affording the most effectual assistance, or being otherwise useful in the service to be performed?

A. Very judiciously placed.

Q. It appearing, by the signal-log of the Caledonia, and other logs, that you made the following communications to the Commander-in-Chief, on the morning of the 12th, five hours 48 minutes A.M.:—"half the fleet can destroy the enemy; seven on shore;" 6-40, "eleven on shore;" 7-40, "only two afloat;" 9-25, "enemy preparing to haul off." Was it your Lordship's opinion, at the time of making the first-mentioned signal that it would have been expedient for the Commander-in-Chief to send in half, or any of his ships of the line, to effect the purpose of destroying the enemy's ships, considering the state of the wind and tide at that time, and the shoal water in the inner-harbour; and, if so, was there a probability, in your Lordship's judgment, that such ships could have got off again in safety?

A. The Imperieuse being the nearest ship, placed by his Lordship, for the guidance of the fire-ships, and having had the charge of those vessels, I thought it proper to communicate to his Lordship, the state in which they appeared to me to be, which I did by the signal mentioned in the question.

[Lord Cochrane made this answer, looking all the time at a paper in his hand.]

President—Is it not usual, when minutes are referred to by witnesses, to ask whether they were minutes made at the time, or subsequently upon reflection?

Judge Advocate—Certainly: When did your Lordship make these minutes?

A. These are observations made at the time, which I am willing to swear to.

President—I only ask for the correctness of proceeding according to the usage of Courts-Martial, not with a view to reflect upon your Lordship.

Lord Cochrane—So I understand.

Judge Advocate—This is not the original paper, but a copy?

A. It is a copy of the minutes I made at the time: I believe I am correct as to the time; but the log-books of the ships will shew; but as to the circumstances I am perfectly correct.

Judge Advocate—The original your Lordship has.

A. The original, I do not recollect whether I have; but Lord Mulgrave desired to have the log of the Imperieuse, and I gave him a copy of this, not in my own hand-writing, but written by a Clerk.

PRESIDENT—The circumstances stated occurred to your Lordship at the moment when you recorded them; but this is a transcript and a fair copy of it, exactly as it was worded before?

A. This is exactly as they happened; some are transposed; they were put down on different slips of paper as they occurred; and here they appear in the shape of a regular log; one or two I have inserted since I came on shore, which I shall remark when I come to them; but all the circumstances are known to the whole of the fleet; and I may appeal to the logs of the whole fleet for them. I could not, in the midst of firing, sit down to write these circumstances.

PRESIDENT—The circumstances which happened, and which were put on slips of paper, are now cast more into the shape of a narrative.

JUDGE ADVOCATE—How long after the action was that copy made?

A. This copy was made in London; but it was made from the notes I made at the time.

ADMIRAL STANHOPE—Lord Cochrane swears, that all which he now states is correct; therefore I do not think it is material where it comes from.

Mr. BICKNELL—Is it necessary, that your Lordship, in giving an answer to this question, should refer to that paper?

JUDGE ADVOCATE—You state that you communicated to Lord Gambier by signals?

A. I believe by the signals mentioned in the question.

ADMIRAL STANHOPE—This is a log-book made up by Lord Cochrane; not kept by him.

A. It is intended for public use. I am ready to produce it to the Court. It is my opinion, that a much smaller force than half the fleet would have been sufficient: the signal was directed by the Caledonia to be repeated; I ordered the signal to be made that two sail of the line were enough; which I have since understood was not made, but that the officer repeated the previous signal: the fact was, that he thought it would be an insult to make that signal, and therefore he repeated the signal previously made, leaving it to the discretion of the Commander-in-Chief to send what proportion of the force he thought proper.

ADMIRAL YOUNG—To whom did you give the direction to have the signal made?

A. I believe it was Lieutenant Baumgardt, who was on board from one of the other ships: from the time the first signal was made in the morning until about eight o'clock, it was ebb tide; the tide was going to windward; about eight o'clock it was low water; there was anchorage out of the range of shot or shell for at least six sail of the line: the Imperieuse passed, in going in, close to the Boyart. It was then nearly high water.

Q. What time is this?

A. Towards two o'clock, or nearly half-past one in the morning; coming out, it was also high water, in both of which courses

there was sufficient depth for vessels of any size, at any time of the tide, but not having been there myself at low water I cannot say that that is the fact; the rise and fall is from ten to twelve feet.

Admiral Douglas—You do not recollect the depth of water you had in passing in and out?

A. The buoy we had very close to the Boyart was, I think, at six fathoms, the impression upon my mind was, that there was depth enough at any time of the tide; I have here a narrative of the whole of the transactions.

President—I think your Lordship said just now that you thought there was water enough for ships of any draft at any time of the tide?

A. Yes.

Q. Have you an authenticated chart, or any evidence which can be produced, to shew that there is actually such a depth of water?

A. It was actually from the soundings we had in going in, provided the tide does not fall more than twelve feet, which I am not aware of; I do not think it falls more than that; I studied this chart some days before, the tide appears by the French chart to flow at three hours twenty minutes full moon, the rise and fall of the tide is, I understand, from ten to twelve feet, it is so mentioned in the French chart, I have no other means of judging.

Judge Advocate—This chart is not evidence before the Court, because his Lordship cannot prove it is accurate.

President—No; it is nothing more than to shew upon what grounds his Lordship forms his opinion of the rise and fall of the tide.

A. With respect to the depth of the water, if the rise and fall of the tide is not more than from ten to twelve feet, then I think there is depth enough at any time of the tide, I think the ships could have got out as safe as the others did afterwards.

President—You say that there was room enough for six sail of the line to lie without the range of shot or shells; do you mean that at any time of the tide?

A. Yes; to that I can speak positively that there was; we were there at all times of the tide, it was the height of the springs and the tide of ebb, and there was five and a quarter fathoms under our bottom, and from five to six fathoms for a distance round about us sufficient for that purpose.

Q. You mean sufficient for six sail of the line?

A. When I say six sail of the line, that was the impression upon my mind; but I believe you might put a dozen or twenty there.

Q. Out of the range of shot and shells?

A. Yes; I mention six, and I am sure I am within the mark; there would have been sufficient room for cables on each side.

The Judge Advocate reading over that part respecting a dozen or twenty sail of the line lying out of the range of shot and shells—

Lord Cochrane—That was merely conversation, I should not wish to swear to that, only to the other part; it was merely in answer to a question which was not taken down.

Judge Advocate—Your Lordship wishes that to be struck out?

Lord Cochrane—Yes; the bearings of this place are the wreck on the Palles, I think on with the town of Foras, and the windmill open at the point of Isle d'Aix; but the bearings are correctly noted in the log which I hold in my hand, and which I offer to the Court.

(Lord Cochrane delivered it in.)

Q. Are all the circumstances and entries made in this log stated accurately, to the best of your Lordship's knowledge and belief?

A. They are.

Q. Did the Commander-in-Chief, in consequence of the signals mentioned in the last question, afterwards, and at what time, weigh, with the large ships under his orders, and how near to the Isle of Aix, and at what time did he come to an anchor?

A. He weighed, I think, about eleven o'clock, and anchored about half an hour afterwards, having both wind and tide in his favour; the position taken up by his Lordship was nearly that which I offer to the Court in Chart No. 2; in which is shewn the situation of the enemy from day-light in the morning of the 12th, until the two French ships which remained at anchor cut or slipped, upon his Lordship's standing towards them. It may be necessary to mention to the President, that on receiving a letter from the Secretary of the Admiralty, stating that a Court Martial was to take place, as I then had sufficient recollection of all these things, as it respected time, I wrote them down, and that I offer them to the Court; that which I have written goes on as a narrative.

Mr. Bicknell—It will be better, I should think, to go on with our examination. Q. Was the position the Admiral then took the most advantageous that could be taken for observing the transactions then going forward, and for sending ships, in the most prompt manner, to attack the enemy's ships, or for the support of those already advanced upon the enemy, and might that position have been taken at an earlier period, with advantage to the service?

A. Certainly. It was a good position for observing the transactions of the enemy.

President—I presume that question refers to the second anchorage ground, which your Lordship has spoken of.

A. It was a very good position, but there was no attack made till two o'clock.

President—The question I understand to go, whether that was a good position for sending ships to attack the enemy?

Judge Advocate—And for carrying into effect the service referred to by your Lordship's signal, namely, the destroying the enemy, and could it have been taken at an earlier period with advantage?

A. It was not a position for attack.

President—The question does not appear to go, whether it was a proper position for attack, but for sending ships to attack the enemy; or to support those which might attack the enemy? that is what you mean, is it not.

Mr. Bicknell—Yes.

A. If I fully comprehended the question I would answer it directly, but I do not, for there were no vessels then sent for attacking the enemy. I have got a narrative which will state every thing to the Court, for it is impossible to answer all these questions. It must be obvious, that when vessels are within three or four miles, that is not a good position for attack.

President—The question does not apply to that; but whether that was a good position to place the fleet, to detach vessels from to attack.

A. I have no hesitation in saying, certainly it was a good position for that purpose—certainly it was a good position for observing the transactions of the enemy; and being near, assistance might have been sent to any vessels, had an attack been made upon the enemy: that position might have been taken at day-light, when an attack might have been made with advantage to the service.

Q. It appearing by the log-book of the Imperieuse that you, having previously sent a boat and buoyed the channel into the inner road of Aix, weighed at half past eleven A. M. on the 12th of April, and ran into the harbour in company with the Ætna Bomb and a Gun Brig, and that at 2 P.M. you anchored in 5 fathoms water and commenced close action with the Ville de Varsovie, Calcutta, and Aquilon; did you weigh and advance towards the enemy, as before mentioned, by signal from the Commander in Chief, or did you do so without orders by signal or otherwise?

A. I think it necessary, if I am permitted by the Court, to read in answer to this question remarks which I threw together in consequence of a letter which I received from the Secretary of the Admiralty.

President—I do not know what may be the opinion of the Court, but I confess it appears to me, that the more regular course would be for Lord Cochrane to answer that question, if it is in his power to do it, not by reference to any correspondence he had with any other person, but what is the conviction in his Lordship's mind; that is my idea of what should be given in answer to that question.

Judge Advocate—I was only waiting till his Lordship had finished what he had to say, to observe, that if that minute was made at a considerable distance of time after the transaction, he cannot refer to it.

Lord Cochrane—I will finish what I have to say, and then submit it to the Court.—In consequence of a letter I received from the Secretary of the Admiralty, stating to me that a Court Martial was to take place, I wrote these remarks, which contain all the transactions which took place in Basque Roads, and are expressly in answer to the above question: the Imperieuse had been detached the night before, I having the charge of the fire ships to effect the destruction of the French Fleet, and the Imperieuse had not been recalled from that service.

President—I still retain the same opinion, that where you can have the evidence stated by word of mouth, you are bound so to take it, and that you cannot with propriety receive as evidence any thing which has been thrown together as a communication to another person: that is my idea. If the Judge Advocate, who is our legal adviser, thinks I am erroneous, I will submit with the greatest satisfaction in the world; but here is Lord Cochrane, who wrote this, in Court, he does not say that his recollection is not sufficient to state what is there set down, and I think it is only in tha shape it can be received.

Judge Advocate—Certainly, the rule is, that wherever persons shall have committed to paper, immediately, or within a day or two after the transactions have passed, he is permitted to look at those memorandums; but if he has made those memoranda at a distance of time afterwards, when it is possible that they may not have been made so correctly as if they were written a day or two afterwards, it is the constant practice to refuse the witness leave even to look at those memoranda.

President—I never in all my experience knew the document of a witness permitted to be received when he was present himself to be examined.

Admiral Young—I take it to be a great indulgence to permit them to be referred to, if made even the next day.

Judge Advocate—Certainly.

The first part of the question was again read over to Lord Cochrane.

A. No, that is not correct—it was one o'clock.

President—Here is the part of the log-book to which the question refers—"At eleven 30 weighed and ran into the harbour, in company with the Ætna bomb and a gun-brig, the enemy making sail up the Charente."

A. That is not the case.

President—It so stands on the log-book.

Judge Advocate—Then that entry in the Imperieuse's log-book is not correct?

A. It is not correct by any means.

Admiral Stanhope—Here are two log-books produced in Court: I want to know, whether it is understood, that the Captain has a log-book, distinct from the ship's log, and if so, which is to be taken to be correct: for Lord Cochrane states, that he will not answer for the correctness of the ship's log.

Judge Advocate—He goes further; for he says it certainly is not correct.

President—And that is what is sworn to by the Master.

Lord Cochrane—We were not above half an hour in going in, certainly.

Mr. Bicknell—When you went in on the 12th, did you weigh and advance against the enemy, as before-mentioned, pursuant to a signal from the Commander-in-Chief; or did you do so without orders from him, by signal or otherwise?

A. I did so in compliance with what I considered to be the spirit of the orders I had received—the doing of it was my own act undoubtedly.

Mr. Bicknell—Is that inserted respecting the incorrectness of the log-book?

Judge Advocate—I have not inserted it, but I will do it if it is wished.

Lord Cochrane—I have no doubt of it; the fires were put out, and there were no bells rung, that there might be a difficulty in ascertaining the time.

President—It will be ascertained at once by the evidence of Captain Godfrey.

Judge Advocate—I have taken it down thus:—"The entry in the log-book, that I weighed at half past eleven A.M. is not correct."

Lord Cochrane—It will probably appear by the log-books of the fleet, that I weighed at one o'clock.

President—In company with the Ætna?

A. The Ætna rather preceded us.

Mr. Bicknell—It appears also, by the logs before the Court, that you made the following communications to the Commander-in-Chief on the same day:—"at 1-30 P.M. enemy's ships getting under sail; at 1-40, enemy superior to chasing ship, but inferior to the fleet; at 1-45 in distress, and in want of immediate assistance."

A. These signals I must explain, because I really did not intend to make such signals.

President—That explanation will of course form a part of your answer.

Judge Advocate—The question grounded upon this is, What was the nature of the distress of your ship; and did any, and what frigates come to your assistance in consequence thereof,

by signal from the Commander-in-Chief; and was there any unnecessary delay in that respect?

A. I enquired by hailing the Ætna bomb, what attack was meant to be made upon the enemy. The Commander replied, he was ordered to bombard them. I directed him to go close, and that we should protect him. It was then one o'clock: the French three-decker swung to her hawsers, and the last of their ships began to move. I had the charge of the fire-ships, which had failed of their expected purpose. I knew what the tongue of slander was capable of; and though I admit that the feelings of my Lord Gambier for the honour and interest of his country were and are as strong as my own, yet personal considerations were enough; the expectations of my country—the hopes of the Admiralty—and my own prospects were about to vanish———

Judge Advocate—I am very sorry to interrupt the proceedings of the Court, but having spoken on the paper his Lordship has in his hand, I must beg to have the opinion of the Court whether he may refer to it or not. I am guided only by a sense of my duty.

Lord Cochrane—I am bound to state the whole truth—I do not think I can deliver the whole truth, unless I am assisted by these notes I have taken, after being acquainted by the Secretary of the Admiralty that this Court-Martial was to take place. If I am to state the whole truth, I must use these notes.

Judge Advocate—How long afterwards did your Lordship make these notes?

A. In June.

Admiral Young—There appears to be a peculiar impropriety, in that which is at all times improper, that any notes not made at the time should be used: these are not only not made at the time when his Lordship knew for certain they were to be used in the bringing his Commander-in-Chief to trial—therefore, if there are any notes which, more than any others, it would be improper to use, I should think these are the notes.

Judge Advocate—These notes being made in the month of June, and the transaction being in April, it is contrary to all law that they should be used.

Admiral Young—The Court must be satisfied with his Lordship's giving (which they know he will do) all the facts within his knowledge.

Lord Cochrane—These memoranda contain nothing but what is in the log-book.

Admiral Stanhope—I think in the letter written by Lord Cochrane to the Admiralty, in answer to that in which he is desired to produce satisfactory information to them, so as to enable them to judge whether to suspend the Vote of Approbation, or to take such steps as the circumstances may require, his Lordship does nothing but refer them to the log-books of the fleet, which his Lordship there says will be found sufficient. After this, my Lord Cochrane having noticed that a Court-Martial is to take

place, commits to paper such things as he thinks it right to state, and he wishes to have them introduced; which appears to me, under any circumstances, improper, but more especially when coupled with that letter.

Lord Cochrane—The Lords of the Admiralty did, what I considered a very improper thing: they questioned me as to my conduct in Parliament; and I thought that letter a very proper answer to their letter on that subject.

President—We will not enter into that: the only question is, whether his Lordship can refer to minutes of transactions made at such a distance of time; I think the Judge Advocate has so clearly explained it, that there can be no doubt:—I had a doubt at first, but I think we must take the evidence my Lord Cochrane can give now.

Lord Cochrane—If my log is put into my hand, I can equally answer the questions. This is all from the log.

President—I only wish to prevent the introduction of such a custom, which I think may be attended with very great evils.

(Lord Cochrane's log was handed to him.)

Judge Advocate—These I understand are copies also; when were they made?

A. They are all copied from notes I made at the time.

Q. Has your Lordship the possession of those notes, from which you made them?

A. It was principally from the copy of the ship's log, corrected by my own notes.

President—Were the notes from whence that was taken written at the time of the occurrences, or immediately afterwards?

A. Yes.

Judge Advocate—But is this a correct copy of it; if not, it is still objectionable. I understand his Lordship to say there are still some little alterations?

A. There is one circumstance about hailing the Indefatigable, which is not mentioned, but every one of the ship's company knows I did hail her; but none of these circumstances are in the least material to Lord Gambier. I swear that is correct to the best of my knowledge. I weighed anchor and ran in, and went beyond the possibility of return; I ordered sail to be made after the sternmost ships of the enemy: in standing in I made a signal that the chace was superior to the chasing ship, because the Ville de Varsovie and Calcutta were both afloat, and immediately afterwards that we wanted assistance, which signal is absurdly coupled with the words "being in distress." When we brought up on the Palles, we opened our fire upon the Calcutta and Ville de Varsovie; the Calcutta was broadside on; the Ville de Varsovie lay with her stern towards us, she being under sail, and the Aquilon was in the same position.

President—Do you mean by the same position, being under sail?

A. By having her stern towards us she was aground. The latter did not fire for a long time, they were employed in clearing away their stern, to get guns out; when we anchored it was about two o'clock; some brigs had anchored as marked in the chart No. 2, for the protection of the bomb, and they were firing, but too far off to be of any use. I made the signal for those to close, but as there is no flag to express brigs only, without frigates or larger vessels, most of which were commanded by my seniors, I explained, as far as lay within my means, that this signal was intended for them, by firing upon them from the main deck; for the quarter deck shot, which I elevated myself, did not reach them. This signal, I was afterwards informed, gave considerable offence, and so soon as I heard that from Sir Harry Neale, I declared to my Lord Gambier, that it was not my intention in the slightest degree to hurt his Lordship's feelings. I had then no time to express, by a tedious telegraphic communication, what I meant to convey; we were all busily employed, when it was reported to me that several sail of the line and frigates were coming to our assistance; I do not remember the first ships that came down, the Revenge, I think, was the first line-of-battle ship; about three the Revenge and several frigates came within hail. I hailed them to anchor, or they would ground immediately, we having taken our berth upon the very edge of the shoal. It was then falling tide: several, when anchored, opened their fire upon all the ships that were within reach, to wit, the Ville de Varsovie, the Aquilon, and the Calcutta. I made a signal that the Calcutta had struck; and sent a boat to inform those who were firing at her, that our boat was then on board of her; upon which the Indefatigable and others, (I think there was one other) turned their fire to the Aquilon and Ville de Varsovie. I ordered our people to cease firing: there were then ships enough to destroy the enemy without the Imperieuse. Our people were much fatigued; they therefore rested themselves, with the exception of those stationed to repair the rigging; the other ships continued to fire on the Ville de Varsovie and the Aquilon until they struck, which was, I think, about six o'clock. The Calcutta was set on fire; the enemy, in their consternation, kindled the Le Tonnerre: when the Aquilon and Ville de Varsovie were boarded, our boat was employed shifting the prisoners; the French were deserting several of their ships, with every boat that belonged to them, and pulling and sailing for the Rochefort river. An attempt was intended to have been made this night to burn the enemy's ship called the Ocean: Captain Bligh volunteered upon this service: Capt. Maitland regretted that, on account of Capt. Bligh's having previously undertaken it, he was deprived of that opportunity to distinguish himself. I was too much tired to undertake it myself. I could scarcely stand from extreme fatigue: They were not so much so. The reason why it was not done, I have only learned since seeing the public dispatch in the papers.

President—What is the question?

(The question was read over.)

Judge Advocate—This appears to be more a narrative of the transactions.

Lord Gambier—It is an answer to all the parts of the question, except the last, as to whether there was any unnecessary delay in the frigates coming.

A. I think I have mentioned that the frigates arrived at three o'clock.

Lord Gambier—At what time was the signal made?

A. I was so much occupied at the time, that I really cannot say. I think it was about ten minutes before we brought up, to the best of my recollection.

Judge Advocate—It appears by the log to have been 1.45.

A. Certainly, the two times cannot be correct; it must have been taken by two different watches; the vessels had to come three miles—they could not have come that in the time.

Judge Advocate—Does your Lordship say, they could not come after the time mentioned here, 1.45.?

A. I dare say that may be about the time.

Judge Advocate—The only part of that question then unanswered is, whether there was any unnecessary delay?

A. As the French had taken their boats to land the people, they were almost all ashore that night, and the next morning there were two or three chasse-marees in their stead, lightening the enemy's ships, by receiving various articles from on board of them.

Judge Advocate—I believe this question only goes to the 12th?

A. Then the direct answer is, that there was no delay whatever, to the best of my belief, after the signal for assistance was made, on the part of my Lord Gambier, in ordering vessels to our assistance; but had the attack been made in the morning, when the tide was falling, until past eight o'clock, and when the enemy's ships were all, with the exception of two, fast aground; the three decker and two others, as shewn in Chart No. 2, lying close together, heeling inwards, with their masts and yards apparently locked, in which position they continued until one o'clock; it is my opinion, that seven sail of the enemy, including the three-decker, might have been destroyed with facility, by two sail of the line, assisted by the frigates and smaller vessels; and that after the hour of half-past eleven, when the enemy's two ships remained at anchor, until the British fleet weighed, that the frigates alone, assisted by the smaller vessels, might have destroyed the whole of the above-mentioned ships, the rear of which afterwards were attacked.

On the answer of Lord Cochrane being read over, when the Judge Advocate came to the words, "this signal I was informed, gave considerable offence;" Lord Cochrane desired to have the following words inserted: —"as this signal expressed more than was meant, to wit, close with the Admiral: being informed that it gave considerable offence."

When the Judge Advocate came to the words, "and that after the hour of half-past eleven;" Lord Cochrane desired to have the words, "and during the rising tide," inserted before them.

[*Adjourned to to-morrow morning nine o'clock.*

SECOND DAY,

THURSDAY the 27th of JULY, 1809.

The Right Hon. Lord COCHRANE called in again.

Examined by Mr. Bicknell.

Q. Did it appear to your Lordship that there was any unnecessary delay on the part of the Commander-in-Chief, from day-light on the morning of the 12th of April, when your Lordship made the signal, "that half the fleet could destroy the enemy's ships," till the Imperieuse and other frigates went in to the attack of the enemy's ships on the afternoon of that day?

A. Yes; when I expressed by signal to the Commander-in-Chief, shortly after day-light in the morning, that part of the British fleet was enough to effect the destruction of the enemy, there being only two sail of the enemy's ships capable in any degree to resist an attack, I did expect that an endeavour would have been immediately made to dislodge these two ships from the situations in which they remained, by an attack by two or three sail of the line, which were quite sufficient for that purpose; the tide and wind were, from day-light in the morning until past eight o'clock, both going the same way, and ships of the line by passing near to the Boyart and putting their helm-a-lee, their fore and main-top sails being to the mast, would have brought their heads towards the north-east, which would have enabled them, at a distance at which the shot of Aix would have been of no effect, to have brought all their guns to bear upon the enemy's two ships.

PRESIDENT—Which two ships do you now allude to?

A. The two which still remained at anchor (they are marked in the Chart which I have given in to the Court) until they approached them, or until so far down to leeward that they would have been enabled, by putting their helms up, to run under their sterns, between them and the ships on shore, and thereby capture them, or force them to cut and run a-ground likewise, and then effect both their destruction and the destruction of the other vessels which were on shore; and which I have already stated might have been destroyed by the endeavours, in my opinion, of two sail of the line, aided by the frigates, at any period previous to half-past eleven o'clock in the forenoon of the 12th of April, and by the frigates alone before one o'clock, when the French three-decker swung to her hawsers, and when the last

of their ships began to float; I speak of the line-of-battle ships; some of the frigates did not float, for the two ships which had remained at anchor, and cut on the approach of the British fleet, had also grounded, there not being, even at twelve o'clock, at half tide, water enough for them to effect their escape up the middle of the Channel leading to the River Charente.

President—I beg to ask a question for explanation; what was the tide, an ebb tide or a flood tide, on the morning of the 12th?

A. The ebb tide was running till twenty minutes past eight o'clock; the ebb tide runs out towards the north-west.

Q. How was the wind?

A. The wind was about north-west.

Q. Then how could the wind and tide be running the same way?

A. I talk of after ten o'clock.

President—Then there is a little obscurity, not in your representation, but in my comprehension, I dare say; I think you had better make that more distinct.

A. I have expressed it here, till past eight o'clock.

Q. The wind and tide were going contrary ways till past eight o'clock?

A. From eight o'clock till twelve they were running the same way; I think that it was twenty minutes after eight that it turned: the tide and wind were from eight to twelve running the same way.

Lord Gambier—That explanation should stand upon the minutes.

Judge Advocate—A witness has a right when his evidence is read over, to correct any mistake he has made.

President—Do you wish to make any further correction?

Lord Cochrane—No, none at all.

(The Judge Advocate read the rest of the answer.)

Judge Advocate—By "till half past eleven o'clock," you mean from ten to half past eleven?

A. I mean at any period after day-light.

President—What were the circumstances that induced your Lordship to believe, that from half past eleven o'clock, to one o'clock, the frigates alone were capable of destroying the enemy's ships; I take it from the narrative which has just been given?

A. The helpless situation of the enemy; they being aground; and the same conviction that led me afterwards to consider the risk in attempting it exceedingly small.

Q. If, in your Lordship's judgment, the frigates alone were sufficient to effect the destruction of the enemy's ships between half past eleven and one, why might they not as well have per-

formed that service between any period of the morning and eleven o'clock; the short question is, if they could do it after eleven, why could not they do it before?

A. At eleven o'clock the British fleet weighed and stood towards the enemy, whereupon their two ships which continued still at anchor, cut and ran aground; the British fleet brought up about half past eleven o'clock: I was ignorant what my Lord Gambier's plans might be, and though I concluded that the fires for cooking had long previously been out, yet I imagined that this might possibly have been (I mean the anchoring) to give the seamen something to eat and drink.

President—Really I very humbly beg your pardon, but I do not see how this can be an answer.

Lord Cochrane—If, when it is written, it shall appear not an answer to the question, then I humbly submit it may be struck out.

Admiral Young—Yes, but if the Court is of opinion their time is taken up with any thing which is not relevant, they may I apprehend stop it, when they see that; that which you are saying has no sort of connexion; they may I conceive determine whether it shall be taken.

Lord Cochrane—I apprehend that cannot be seen till the Court see what it is I am about to say; I will, if the Court will permit me, finish what I have to say:—To give the seamen something to eat and drink previous to going into action; and though I regretted the time, that appeared in my mind to have been already lost, as well as what we were evidently losing, by even half an hour's delay, in making some kind of an attack, by a couple of sail of the line, or by the frigates only; yet I consoled myself, by the supposition that his Lordship intended a grand blow on the island and on the ships at once, although I thought this neither necessary in order to effect their destruction, or prudent with the whole fleet; I could not in any other way account for a proceeding, that thus enabled the helpless French ships to endeavour their escape undisturbed into the River Charente: twelve o'clock arrived, no signal was made to weigh anchor; half past twelve, still no signal.

Admiral Young—This is really very improper: this has no sort of connection whatever with the question which is asked, and is only a series of observations to the disadvantage of the prisoner.

Lord Cochrane—I wish to speak the truth, the whole truth, and nothing but the truth.

Admiral Young—This really has nothing at all to do with the question which is asked you, which arises merely out of the statement which you have made.

Lord Cochrane—If the question is put by a person ignorant of the whole proceedings, and which does not lead to get the truth, and the whole truth, I hold that I am to give the whole

truth; and that I must depart from an express answer to the question, in order to give it.

Mr. Bicknell—This is a question put by the President, and not by me.

Admiral Young—You say, that at a given hour of the morning, two sail of the line were necessary to destroy the ships of the enemy; and, you say also, that at a subsequent hour, only two frigates were necessary to destroy them: the short point is, why you thought that only those were necessary at that period, and not at the other?

Lord Cochrane—In three times more I shall finish what I have to say.

Admiral Stanhope—Would it not be better, at once, to clear the Court and decide upon this?

President—My feeling is, that Lord Cochrane should now be heard out, till he has terminated his answer: and then it will be a question with the Court, whether it shall remain upon the minutes. It does not appear to me to be at all relevant; but, I think Lord Cochrane should finish till he comes to the very point in question, and answer that point afterwards: it may then be for the consideration of the Court, how much of it shall stand as evidence.

Admiral Sutton—I really should wish the Court should be cleared upon it.

(The Court was cleared.)

(After about 20 minutes, the Court was re-opened.)

President—Lord Cochrane,—the Court have deliberated upon the very-digressive manner in which you answered, or were proceeding to answer the question put. You will not be interrupted in concluding in the manner in which you shall propose to conclude it; but the Court have also commanded me to say, that in all succeeding questions, they must require you to give a short and decisive answer to the question put to you. There is another thing, my Lord, I am commanded to observe, that in commenting on the question you were called upon to reply to, you said the question was proposed by ignorance, or some words to that effect. I believe I am not incorrect; there were some words, as to ignorance, made use of. Now my Lord, if that question had been proposed to you, by the Solicitor for the Admiralty, and if it should be admitted, that being Solicitor for the Admiralty, and not a sea-officer, he might not have proposed a question in strict language; yet, I am sure, that your Lordship will see, that applying the term of ignorance to an officer appointed by the Admiralty, should not be done in a trial of this kind. It was, however, a question proposed by me; and, according to the forms of the Court, handed to the Judge-Advocate, by the Solicitor, to be proposed to your Lordship; and, I think, considering all the circumstances together, it was, in no small degree, indecorous to the Court, to make use of such an expression.

Lord Cochrane—Had I used the expression in the sense supposed by the Court, I should be reprehensible; but, I believe I said it would leave the Court in ignorance, if I answered merely to the question put to me—in ignorance of those things which ought to be known to the Court—that was, as to my reason for not weighing at half-past eleven o'clock, and that it would tend to criminate myself: that it would be said, why, if the frigates were equally capable of weighing at half-past eleven as at one, did I not do it? and I, therefore, found it necessary to give that explanation.

President—That was not the impression made upon my mind, or that of any one of the Court; for it did not infer that the reply you should make would be involved in ignorance, unless you elucidated it; but, the observation was, that, if persons, ignorant of the circumstances, proposed questions, they would not be informed.

Lord Cochrane—Then that was really not my intention.

Admiral Young—With respect to the answer you are giving, on a supposition that another question would be asked, the answer you are giving would be very proper when that question was asked; but it is in no measure an answer to the question now asked; but if that question was not put, there is no reason whatever for giving that answer.

Lord Cochrane—It appeared to my mind, the evident inference was, why did you not yourself get under-weigh at eleven o'clock?

President—My question (for I call it mine, notwithstanding all that has passed)—my question was simply that which was explained—" if the frigates could do the thing at two, why could they not have done it at ten?" I think we had better now proceed.

(The question and answer were read over to Lord Cochrane, and he proceeded.)

I ordered the cable to be hove taut up and down—the seamen remained at their bars—the Ætna bomb passed. I enquired, by hailing, if any attack was intended to be made on the enemy; and was answered by the Commander (I think it was Captain Godfrey), that he was directed to bombard the enemy. I think there was a brig coming after him. I desired him to go close; and immediately hove the anchor to the bows. The impression upon my mind was, having seen no signal made to indicate an attack (that is to say, made about that time), that no further attack, except that of throwing shells, was intended. The Calcutta, Varsovie, and most of the other ships were pressing sail to force them on towards the Charente, and out of our reach. The Imperieuse, though we did not commence to fire upon the enemy until two o'clock, was then only in time by firing upon the Calcutta, to cut away, or to cause them to break (from the confusion into which they were thrown) a hawser, that lay from a weather port. The same cause (that

is, the confusion of the enemy) forced the Varsovie on shore, and thereby prevented the escape of those two ships, which were the last with the exception of the Aquilon, which vessel, though near, was a little further up; and they on board the Aquilon, were in such confusion, that it was upwards of an hour, I think an hour and a half, before they could get one single gun out of the stern-ports of that vessel. The whole of the enemy's ships of war were, at two o'clock, in the position shewn in chart No. 3, which I shall present to the Court; and the British fleet are there put down as it appeared from the Imperieuse, from the anchorage which she took up, and in which anchorage she continued until one o'clock, close to the Boyart shoal, just within the longest drop of shells from Oleron. The Isle d'Aix, though nearest, did not fire at all.

(His Lordship delivered in the chart.)

(The question was again read over, at Lord Cochrane's desire.)

Judge Advocate—Your Lordship's answer goes to subsequent proceedings?

A. The reasons, if there are any, why the frigates might not, previous to the hour of half past eleven o'clock, have attacked the enemy, will be found in the preceding narration, wherein it appears, that two sail of the line still continued at anchor until the hour of half-past eleven o'clock; which two ships, it appeared to my mind, it would have been better to attack by opposing to them two or three sail of the line, instead of a greater number of frigates; although it was my opinion, that the frigates themselves would have been quite equal to the task; and this opinion, founded upon the situation in which they were, and the confusion in which they appeared to be, I expressed, a little after day-light, in the morning, in conversation to the officers, and, I think, to Captain Wolfe, who then came on board; who likewise expressed to me his opinion.

Judge Advocate—I am afraid that is not evidence.

President—Nor is the conversation with the officers any evidence. I am very sorry, Lord Cochrane, to interrupt you.

Lord Cochrane—Only it gives the Court an opportunity of proving the fallacy of what I state, by their calling these persons.

President—No, it really is not evidence; it is from facts the Court must form their opinion.

The latter part of the answer was struck out from the words—"equal to the task;" and Lord Cochrane proceeded.

The enemy's two ships were employed all the morning attempting to get their top-masts up; which, in the course of six hours from day-light in the morning, I do not think they had quite effected, at the time that they made sail on the approach of the British fleet, and ran aground in the middle of the chan-

nel leading to the Charente. One, I think, had only her main topsail and foresail set: I think it must have been about half an hour after the British fleet anchored. That shews the state and condition, which caused an impression upon my mind, that they were not in a state to fight properly, as they otherwise would have done.

Mr. Bicknell—It being stated in the log-book of the Imperieuse, that at four P.M. of the 13th of April, the in-shore squadron worked out, the ebb tide having made, and not water for the bomb to lie afloat; and it being noted in the log-book of the Imperieuse, that, on the same afternoon, your Lordship answered a signal of recall from the Caledonia, and made telegraph signal to her; and it not appearing by the signal-log of the Caledonia that any such signal of recall was made; your Lordship is desired to state whether you are certain that such signal of recall was made, and at what time; and whether the in-shore squadron came out in consequence; and what was the purport of the telegraph signal your Lordship made to the Commander-in-Chief?

A. On the morning of the 13th of April, the ships of the line which were in the inner anchorage, one of them bearing the flag of Admiral Stopford, weighed and worked out of the inner anchorage, by order, to the best of my belief, from Admiral Stopford, whose ship shewed some lights, which I understood was a signal for that purpose.

Admiral Sutton—A signal for recall?

A. A signal to work out—they had grounded.

Q. A signal to the ships under his command?

A. A signal to the line-of-battle ships.

Q. That was the Revenge and the Valiant?

A. They were the only two ships I saw: others came in in the night, and went out in the morning, and I did not observe them; I was attending to the ships that were burning. The Cæsar did not come in till it was dark at night, I saw her going out again in the morning: this, I understood, was a signal for the line-of-battle ships, most of which having grounded, continued until low water.

Admiral Sutton—It appears this was a night-signal you are alluding to—Does the question allude to a night-signal or a day-signal?

Lord Cochrane—I am going to contradict a part of our log, for it is false if it is supposed the bomb grounded during the night.

President—It is merely stated: that respecting the bomb does not at all refer to the question proposed, which is this—It appearing in the log of the Imperieuse, that such a signal was made to her by the Caledonia, and in the signal-log of the Caledonia no such signal appearing, are you certain that such a signal was made from the Caledonia to the Imperieuse; and

what was the signal your Lordship made to the Caledonia by telegraph?—that is the simple question; the other is merely a matter connected with the statement in the log.

Lord Cochrane—If it has a connexion it should be answered; if it has no connexion it should be erased; for it is not correct in matter of fact: this I understood was a signal for the line-of-battle ships, most of those having grounded, having continued in situations in low water, in which it was known by the chart that there was not water enough; I beg to see the log of the Imperieuse about this grounding of the bomb: that must have been the afternoon of the next day.

President—You had better see; there is a possibility that these gentlemen may have erroneously extracted from the log.

(The log was shewn to his Lordship.)

Judge Advocate—The entry in the log stands thus "at four weighed, the in-shore squadron had worked out, the ebb tide having made and not water for the bomb to lie afloat, anchored near the squadron, supplied his Majesty's ship Æagle with fore-topsail yard;" then it stands against that, "answered recall from the Caledonia:"—written in the margin "made telegraph signal to ditto."

President—Then your question is, whether such a signal was made, and what signal did you make?—the other is perfectly immaterial.

Mr. Bicknell—The former part of the question may be omitted—the question goes merely to the recall.

A. The signal of recall was reported to me to have been made by the Caledonia; I answered by the signal "that the enemy could be destroyed."

Mr. Bicknell—That is another day.

A. I am clear with respect to the date.

Lord Gambier—This was on the 13th; that Mr. Bicknell asks to.

A. I am now deposing to the 13th; and I was the further confirmed in this opinion by a demi-official letter which I hold in my hand, directed on service to me by his Lordship.

President—Would it not be better to say whether there was a signal of recall made?

A. I have already said there was, to the best of my information, and I am going to confirm it.

Judge Advocate—At what time was it made?

A. It was after the bomb came back from bombarding the enemy: the exact time I cannot state—perhaps about four o'clock, or I should think it might be towards five.

Admiral Douglas—Was it previous to your making the signal that you could destroy the enemy?

A. No: I answered it by that signal.

Admiral Douglas—That appears to be made at twelve o'clock.

His Lordship proceeded—I was the further confirmed in this opinion by a demi-official letter which I hold in my hand, directed to me on service by his Lordship, ordering out the Imperieuse, together with the bomb, and dated on the 13th, written, to the best of my belief, in his Lordship's own hand, which I beg may be read to the Court.

(The letter was read.)

"Caledonia, 13th April.

"My dear Lord,

"You have done your part so admirably, that I will not "suffer you to tarnish it by attempting impossibilities, which I "think, as well as those Captains who have come from you, "any further effort to destroy those ships would be. You must "therefore join as soon as you can with the bomb, &c. as I "wish for some information which you allude to, before I close "my dispatches.

"Your's, my dear Lord,

"Most sincerely,

"Gambier.

"I have ordered three brigs and two rocket-vessels to join "you, with which, and the bomb, you may make an attempt "on the ship that is aground at the Palles, or towards I. Ma-"dame; but I do not think you will succeed; and I am anxious "you should come to me, as I wish to send you to England as "soon as possible. You must therefore come as soon as the "tide turns."

Judge Advocate—There is no direction upon this; the cover is not with it.

A. It was a letter received by me from his Lordship, and sealed with his seal: to which I replied with the following letter, also of date the 13th, and with which letter I sent a commissioned officer.

(The letter was read.)

"Basque Roads, 13th April.

"My Lord,

"I have just had the honour to receive your Lordship's letter. "We can destroy the ships which are on shore, which I hope "your Lordship will approve of.

"I have the honour to be, &c.

"Cochrane.

"The Right Hon. Lord Gambier."

Lord Cochrane—I wish to state that, on the following morning at nine o'clock, I received another letter from his Lordship, in which his Lordship erred in the date, it being dated the fourteenth, which letter I obeyed, by proceeding to his Lordship as soon as possible.

PRESIDENT—The question is, as to whether the signal made was on the 13th?

A. I positively swear, that to the best of my belief, it was made; I made a signal that the enemy could be destroyed; I received his Lordship's letter on the 13th, and I returned the answer which has been read by a commissioned officer; on the morning following I also answered the signal of recall, which I saw myself made on board of the Caledonia, which I answered by the interrogatory signal, to know if we should unmoor; by which, without any repetition of the former signal, I did conclude that his Lordship would have understood what was intended; the signal of recall was repeated, which was answered by the Imperieuse, being unmoored, hove short; and as the tide was done we were permitted by his Lordship to remain until the ebb tide began to set, and I received the letter which I hold in my hand from his Lordship, directing me to proceed to the outer anchorage, and stating that Captain Wolfe was to relieve me. I got this on the morning of the 14th, and to the best of my belief it was written that day, because it came by a rocket-boat immediately from his Lordship.

(The letter was read.)

"Caledonia, 13th April.

"MY DEAR LORD,

"It is necessary I should have some communication with you "before I close my dispatches to the Admiralty: I have there- "fore ordered Captain Wolfe to relieve you in the service you "are engaged in: I wish you to join me as soon as possible, that "you may convey Sir Harry Neale to England, who will be "charged with my dispatches; or you may return to carry on "the service where you are. I expect two bombs to arrive every "moment; they will be useful in it.

"Your's, my dear Lord,
"Most sincerely,
"GAMBIER."

PRESIDENT—It appears by the letter of the 13th, of Lord Gambier to your Lordship, that he desired to see you when the tide turned?

A. It was on the 14th I was to stay till the tide turned.

PRESIDENT—What steps did you take in consequence of that letter on the 13th—Did you join, or attempt to join Lord Gambier?

A. His Lordship permitted me to stop, and on the 14th also permitted me stop, because in fact it was impossible to get out; on the 14th, I am convinced I did not make the signal that the enemy could be destroyed, because I thought it would be disrespectful to his Lordship, having the day before conveyed to his Lordship my firm opinion on that subject, both by signal and by letter. I thought a repetition (though I continued of the same way of thinking) would have appeared to his Lordship disrespectful; I therefore made the interrogatory signal.

Lord Gambier—Is that an answer to the question?

A. It is in contradiction to the Caledonia's Log, "that I made that signal on the morning of the 14th." I made the signal, conceiving his Lordship would understand it, "Shall we unmoor," and was answered, as I have already stated, in the affirmative, or I think by the direction to weigh.

Judge Advocate—It appears by the log of the Imperieuse, that at three P.M. of the 14th of April, the Ætna, with brigs in company, were bombarding the ships in the Charante. When were they withdrawn from the service, and by whose orders?

A. I had just delivered the orders to the bomb, when the Officer came in and sent her and the brigs in, but I do not think I was in the harbour when they came out, for the same tide that brought them out, must necessarily carry me out also; but if it is necessary to have any deposition as to the grounding of the bomb, I can answer that now.

President—That was considered as a matter of no importance, and was expunged from the former question.

A. I sent them in to bombard the enemy; I believe they came out after the Imperieuse had weighed and the Aigle had taken her anchorage; I fancy they came out as they did before, by nobody's orders, when the tide set in their favour to get out.

President—Lord Cochrane does not know by whose orders, and therefore we will take no more than comes within his knowledge.

A. The day before I told them to come out, when the tide permitted them to come.

President—That may be put down certainly; that as you gave them that order on that day, it is natural to expect they would do so the next day.

A. The day before I told them to come out on the ebb tide, but they did so a little after high water. I believe the mortar was split, and I think that was their reason; I think the thirteen-inch mortar was split on the evening of the thirteenth: but they were always receiving some damage: they were knocked about a good deal.

Q. Your Lordship having, in your letter to Mr. Secretary Pole, in answer to his letter, requesting you to point out, for the information of the Lords of the Admiralty, any instances in which you thought the Commander-in-Chief had not done his duty (both of which letters have been read to the Court), referred their Lordships generally to the ship's-log and signal-logs therein mentioned; your Lordship is requested to inform the Court, whether you thereby meant to draw their Lordships' attention to any other parts of those documents, than those to which you have been already interrogated and given your sentiments?

A. Their Lordships having directed me to explain my reasons, I referred their Lordships to the logs and signal-logs of the squadron, considering them to be, under every circumstance, the best source whence their Lordships could possibly derive information. It was not my desire, unless I had been pressed, to have

drawn their Lordships' attention to any part of these or any other documents; I considered the affair in Basque Roads, in every respect as past, and (whatever my opinion might have been) incapable of all remedy; had it been a matter in which the future interests of my country were involved, I should not have hesitated one moment in pointing out.

Judge Advocate—The question is, whether your Lordship has any thing else to point out?

A. I am going to state that.

President—The question seems to be (your Lordship having given an opinion upon various transactions) whether you have any thing further to offer to the Court?

A. Then I will answer it in one word: I should not have hesitated in calling their attention to every part of these documents, and of any others of which I might have been possessed. I have now also to call to the attention of the Court this: that had the frigates, on the morning of the 13th, instead of leaving the inner anchorage, in company with the ships of the line, remained there, full opportunity offered that day to destroy several sail of the enemy, which were not out of reach of vessels, properly placed, at proper times of the tide; or of smaller vessels, during every part of the tide: and I have seen no cause to alter my opinion. I have also to call the attention of the Court to the circumstance, that Captain Seymour, of the Pallas, hailed in passing the Imperieuse, to know if he should remain in the inner anchorage; and was directed by me to do so, if he had no orders to act otherwise; for I did imagine it possible (though not all likely), that the signal of recall had been made without our seeing it. The bomb and brigs observing the Imperieuse at anchor, and the Pallas bringing up, anchored likewise. Here we lay out of reach of shot or shell, in five and a quarter fathoms water, at the dead of ebb, these being spring tides; and there was anchorage, as I have already stated, for at least six sail of the line.

Judge Advocate—That is what is already stated in the evidence: it is not necessary to state it again.

Lord Cochrane—I wish also to call the attention of the Court to my reason, after the Imperieuse was refitted, on the evening of the 13th, and after the receipt of the letter (marked A), during the evening of that day, or on the morning following, previous to the second signal of recall being made, for not having, with that ship and the Pallas, attacked the enemy, that I felt, after the letter above alluded to, expressing the opinions of my my Lord Gambier and of the Captains who had come from the inner anchorage, that without any subsequent encouragement, a heavy, a very heavy responsibility, would lie upon my shoulders in case of any disaster, which, in military operations, is sometimes unavoidable: if I had had my cable shot away, for instance, I might have been sunk: all these things are possible, though not at all probable. I think there is nothing further to which I have to call the attention of the Court: there is nothing further that I immediately recollect.

Mr. Bicknell—I have no further questions to ask Lord Cochrane.

Lord Cochrane—I have nothing further, except the orders given to Captain Wolfe, who superseded me in the inner anchorage, with full powers, by any means to effect the destruction of the enemy.

President—Is that addressed to your Lordship, or to Captain Wolfe ?

A. Of course, when I was relieved, I called for a copy of the order he had received, that is dated by mistake the 13th of April, but delivered on the 14th.

Lord Gambier—That might be the same mistake as the other—rightly dated, but not immediately delivered. There was no mistake: it might be dated the 13th, but not delivered immediately: a letter might be dated a week before it was delivered.

A. The order was shewn to me on the 14th, by Capt. Wolfe, when he superseded me.

Admiral Stanhope—Is this meant to supply the place of what before was said about its being dated by mistake?

Judge Advocate—They both stand upon my minutes.

Lord Cochrane—Sir Harry Neale's letter to me also is dated the 14th, so that there appears to have been a mistake in the ship as to the day: that is a private letter to me, which I have in my pocket.

On the evidence being read over, his Lordship desired that that part of it, as to the mistake in dating the letter, might be preceded by the words "I believe."

Admiral Stanhope—It is with a view to that which your Lordship has said that I said what I did; there can be no disposition in any person to suspect your Lordship of saying any thing but what you strictly believe.

Lord Cochrane—My reason for explaining this in the latter part, was to shew that we did the day before make the signal, "that we could destroy the enemy;" but to say positively, we did not make the signal to destroy the enemy the next day. When I made the interrogatory signal the next morning, I thought Lord Gambier would conclude my opinion was the same as it was the day before, without any harshness on my part in making it.

President—I beg permission of the Court to ask one or two questions.—When did your Lordship first discover that in the inner road of Aix or of Basque, there was anchorage sufficiently capacious to contain six sail of the line to ride, without being in range of shot or shell ?

A. I had been in possession of the French charts, which I have not found to be defective, in any material point, for a period of

years; and from those charts I had at all times drawn my conclusions, with respect to the depth of the water or other circumstances, which relate to navigation upon that enemy's coast.

President—That coast of the enemy, I suppose you mean?

A. I refer to the French coast. The Spanish charts also are exceedingly good; I always go by them, and on them in this case, as in all others, I placed my dependance. I went in—on my way I found them correct. I knew by the chart, that when in pursuit of the Calcutta I was to find a bank; I found it, and anchored upon it, and this I did knowing what I was about.

Admiral Young—Was the bank the anchorage?

A. I could not get so close as I was desirous of going.

Q. When did you discover that there was this anchorage in deep water?

A. I have said, that in going in I found the soundings correct in my track close by the Boyart, and that in fact I had that confidence in the chart, that I had said to Admiral Keats, when we were off there, and to Admiral Thornborough, that there could be no difficulty in going in there and destroying the enemy's fleet, and I took the chart on board Admiral Thornborough's ship. It was at that time that the plan went to the Admiralty for destroying the French fleet. I will only say, by which it has long appeared to me, that this anchorage might, if any object was in view, be taken.

President—In the chart that your Lordship consulted upon this occasion, are the soundings so marked as to afford a space sufficient for six sail of the line not within range of shot or shell?

A. That conviction was upon my mind, and is upon my mind; but by referring to the chart, which is exactly the same as others which have been in my possession, those soundings are marked: the Court can, by referring thereto, decide the question.

Q. When you found by experience, upon going into Aix Roads, that the soundings were correctly laid down in the chart you made use of, in which you state you placed great confidence, and from whence you drew a conclusion, that there was safe anchorage for six sail of the line—Did you make any communication of that important fact to the Commander-in-Chief?

A. The Commander-in-Chief had the same charts, I believe, as I was in possession of, upon which, as I have already stated, I formed my conclusions with respect to the anchorage above alluded to; he had also French pilots on board, upon whose reports, from previous experience, I knew the Commander-in-Chief to rely above all other authority. In reconnoitring the fleet the first day, when so near as to induce the enemy to open a fire from almost his whole line, I reported to the Commander-in-Chief the ruinous state of the Isle d'Aix, it having the inner fortifications completely blown up and destroyed, which I not only ascertained from the deck with perfect precision as to the side towards us, but also as to the opposite side, from one of the tops of the ship. There were only thirteen guns mounted.

Admiral Young—Will you consider, my Lord Cochrane, before you go on, how far this is relevant?

Lord Cochrane—I am only going to say the impression which I knew was upon his Lordship's mind, notwithstanding I vouched for these facts with my own eyes, and notwithstanding these French pilots had not been there for several years: there were only thirteen guns mounted on that side on which I had formerly seen, to the best of my recollection, about fifty. In making these observations to his Lordship, for his information, he stated his perfect reliance upon the opinion of the pilots, and assured me that the Isle d'Aix was exceedingly strong, and that (I think) it had three tier of guns mounted towards the shipping. I then observed to his Lordship, that the circumstances I had related fell within my own observation, which did not alter his Lordship's opinion: I noticed also the little confidence which was to be placed in these pilots, and said to his Lordship, as well as to Sir Harry Neale, that I never yet had a pilot.

Judge Advocate—Can this relate to the question which is asked?

Lord Cochrane—Yes; I conceive so, as my reason for not communicating to his Lordship.

President—Lord Cochrane states this as his reason for not taking a particular line of conduct?

Lord Cochrane—I have felt that if I had answered yes or no to all the questions which have been put to me, I ought to be hung; and that if a Court-Martial was held upon me, and only the answers yes or no appeared to those questions, I should be hung for them.

Judge Advocate—I believe nobody has desired your Lordship to answer merely yes or no.

Lord Cochrane—I answered that I never yet knew a pilot, particularly a French pilot, who did not find a shoal wherever there was a gun; and his Lordship, on the day of my leaving Basque Roads, which was the 16th or the 15th, still continued of the same opinion with respect to the Isle d'Aix, notwithstanding my assurances then, when I had had full time to make my observations upon every part of it; and as the whole of the frigates, with the exception of the Pallas, had withdrawn; and as it was evident to the knowledge of his Lordship, as well as to the knowledge of every one of those officers, that those frigates might have continued where the Imperieuse and Pallas then were; I held their being placed in that situation a matter for his Lordship's decision. I naturally conceived that as even these were not ordered to return (I conceived in my own mind, for I did not express it to any body), that as those were not ordered back again, his Lordship did not require any information of which he was not possessed.

Admiral Young—It should seem, from a part of your answer, that your soundings to discover the position for six sail of the line was after the burning of the enemy's ships?

A. By the soundings which I made, I was only confirmed in my opinion of the correctness of the French charts; our's are abominable, and not fit to be delivered out.

Q. Is it necessary, in order to arrive at that anchorage, to pass the shoal of the Palles?

A. You are between the Palles and the shore opposite, just as at Spithead, you are between the Isle of Wight and the shore of England. The shoal of the Palles bounds the anchorage towards the East, and the island of Oleron towards the west, but you do not pass either of them, you anchor between them.

Admiral Young—That last question may be put out, I will put another.—Can ships arrive at that anchorage at all times of the tide?

A. By following the track which I judged best to take in the Imperieuse, that being furthest off from the fire of the enemy, I do believe, as I have already stated, that ships of the line may pass in at any time of the tide. I sat upon the netting, attending to the lead during the time we were going in; it was then high water, and having remarked that the rise and fall of the tide was stated at, I think, about ten feet upon that chart, the impression upon my mind was that I should not with a ship of the line hesitate to go in; I think the impression upon my mind at the same time was, that at low water it would not be proper to take the very heaviest ships, those with three decks, in; that at the dead of the ebb there was no occasion to bring in a three-decker to batter a parcel of ships. I think what we carried over the shoal was a quarter six; the high water was just turning then; I do not think we had any less than a quarter six. I was very near to the Boyart; I wanted to get out of the way of the battery of the enemy; I think I could have thrown a penny-piece upon the Boyart without difficulty. When I speak of the three-derkers, I should mention that the Gibraltar drew as much water as the three-deckers, and therefore the observation equally applies to her.

Q. Was it at the time of spring or neap tides you passed in?

A. I think it was two days or one day previous to the full moon. I think that it was within a day, or that it was that very day full moon, and they expected the very next day to be the highest tide.

Q. All the information your Lordship has of the rising or falling of the water was obtained from the charts only, and without any sounding or experience of your own?

Lord Cochrane—I beg to ask for an explanation. Do you mean as to the rise and fall of the tide, or the soundings?

Admiral Young—The rise and fall of the tides.

As I had remarked, when cruising before upon that coast, the rise and fall about Sable d'Olonne, which is not far distant, to be about ten or twelve feet: at the highest of the tide it was stated to me there, that it was not above ten or twelve feet at the highest tides. I frequently landed upon the beach, which confirmed my observation; and I thought afterward, when the French ships lay aground, that they sued about ten feet. The copper was wet about as high as I could reach: I could not reach to the top of the copper, in fact. The Aquilon, on board of which I was, had sued about ten feet: it must have been the dead of low water when I went with the Frenchman to get out his things; I think about eight in the evening, or a little after eight in the evening of the 13th.

Q. You have said, that if the ships of the line had brought to with their heads to the north-east, near the Boyart shoal, they might have engaged the two French ships that remained at anchor, without being within reach of shot or shell from the Isle d'Aix. That is what you have said, is it not?

A. I mean without risk of shot or shells: they might fire twenty or thirty pounds of powder without an eighty-gun ship being in much danger.

Q. You now say, without danger from shot or shells from the Isle d'Aix—Would they have been nearer to those ships than to the Isle d'Aix?

A. I should not have thought of bringing any ship's broadside to an enemy, when at a distance so great as from the Isle d'Aix to the Boyart, but should have continued in the same course that ships would do in going to the inner anchorage, until the enemy's shot began to tell, and then I should have brought the broadside of the ships to bear in the manner before-described, having their head towards the northward and eastward. It may save another question, if I go on to say,—or if their shot did not tell at all, so as materially to injure, I should probably have proceeded to bring the larboard-guns to bear, by passing upon the side opposite to the Isle d'Aix, until I had placed my ship or ships in such a situation, as not only to capture or destroy these, but those also which were lying as in chart No. 2.

Admiral Young—My question goes to an observation of your own, that the ships might have been brought up close to the Boyart shoal, and engaged the enemy's ships without any danger from the Isle d'Aix; the telling of shot depends upon the skill and coolness with which the men fire.

A. And a great deal upon the distance.

Admiral Young—My question is, whether the distance was such as to create danger?

A. I observed several of the shot going down directly in this way into the water *(shewing it)*. I would lie there for a week and they not hit me twice.

Q. At the same time that you could hit the ships lying at anchor, was there any danger of your being hit by the batteries at Isle d'Aix?

A. Then I should have proceeded to the other side; I should have proceeded to a broadside if it had been necessary, and one was just as good as the other.

Q. You afterwards said, that after a time they might have put their helms up and run under the sterns of the ships that were at anchor, and there engage both those ships and the ships that were on shore.—I wish to ask whether that was a situation in which any of our ships were at any time placed?

A. I have said that provided I found it more expedient, I would have done so.

Admiral Young—The question I mean to ask is, whether any of our ships were placed in that situation at any time?

A. I am going to mention, that the Valiant was there; the Valiant anchored here *(shewing it)*; but there is a great depth of water; there is no less than sixteen or seventeen fathom of water where the French ships lay; the Valiant and several of the ships which joined the Imperieuse (I think it was all except the Indefatigable) about three o'clock P.M. on the 12th of April, placed themselves in the position, or rather passed the position above alluded to, and went on towards the end of the shoal, which in the case stated in the question would not have been necessary.

Admiral Duckworth—Your Lordship having stated, that if two or three sail of the line in coming in had borrowed close upon the Boyart, had then lain their main or fore-topsails aback, and after a period which I suppose must allude to having taken the tide under their lee, so as to enable them afterwards to have borne up, to have gone under the lee of the enemy's two line-of-battle ships then afloat, was there space enough for either one or two or three sail of the line to have taken up an anchorage with even part of their broadsides to bear on those two ships, without taking the ground?

A. I did not consider the tide under the lee as a point essential.

Admiral Duckworth—Your Lordship might state that, for that was only my idea of what you meant.

A. It is a direct answer to the question, I did not consider the tide under the lee as a point essential to the bearing-up; there was sufficient room, I can speak with positive certainty; for we in the Imperieuse, when working out from the position which we occupied, as shewn in chart No. 3, tacked repeatedly, and traversed all the space between the shoal of the Boyart and the buoys of the enemy.

Admiral Young—By the buoys of the enemy, do you mean the enemy's ships?

A. Yes.

President—Do you mean the buoys of the ships driven on shore?

A. The buoys of six or seven sail of the enemy, where they had been anchored in line; I should not have stood so far towards these buoys had it not been that the enemy seemed little inclined to disturb us, which I attributed to the ruinous state of their works, and concluded therefrom that they were in want of powder or other military stores: I should not have chosen, however, any distant station, but should probably have brought up alongside of them, and on that side directly opposite to Isle d'Aix. The three-decker and the other ships that were on shore, two of which appeared to have their masts locked in with her's, (they were touching each other, and I think they must be locked in together,) could have given no material disturbance in such a position, and these three might have been destroyed; holes might have been made in the bottom if we chose, or they might have been filled with water by one 74, had she been sent to attack them, or even by a frigate or two, while the two French line-of-battle ships were occupied at their anchors, as is above supposed, had they persevered contrary to what afterwards was the case in that situation.

On the answer being read over, after the words "want of powder or other military stores," Lord Cochrane desired to have inserted the following words:—"I concluded also that it might be from consternation on the attack upon their ships, and the destruction of them."

Admiral Duckworth—Your Lordship says that vessels might have come and taken up a position between the ships lying at anchor, and those aground—I ask, whether there was room in that inside space to take up a position so as to affect the ships a-float.

A. Yes: it was in reference to your question that I have gone into this narrative.

Q. I do not mean between the Boyart and where these ships lie, but between those ships that were afloat and the others; whether there was room to take up a position from which to cannonade that ship?

A. It is taken for granted in the question, that the space was narrow between, which was not the case; and therefore I was led into that which was a short digression. The three ships that were on shore, from what I afterwards saw, must have been a pretty long cannon-shot from the ships that were afloat—a very long cannon-shot.

Admiral Young—The Revenge and Valiant were sent in to aid you—Were they recalled by signal?

A. I have since learned it, but I did not know it: I understood that there were three lights hoisted. I was very sleepy, and was not much pleased with the officer of the watch waking me, to tell me that there were three lights hoisted, which I

understood afterwards was an order for the line-of-battle ships to weigh. The Cæsar and another ship I do not think I ever saw; they went out very early in the morning. Some persons were kindling the two line-of-battle ships near us, and not knowing that their magazines were drowned, my attention was taken up in the preservation of the Imperieuse. I concluded, from the ships getting under weigh immediately afterwards, that the signal was for that purpose; and I was told, I think, some days ago, that that was the purpose of it. I did not myself see any signal, except the lights above referred to was that signal, and I do not know by whom the signal was made: the impression on my mind was, till two days ago, that Captain Beresford's ship was chosen for the flag of Admiral Stopford, on account of its being a less draught of water, but I cannot say.

Q. Was the signal made in Aix Roads, or in Basque Roads?

A. It was made in Aix Roads; for it was reported to me to be Admiral Stopford, who, I thought, had hoisted his flag on board the Theseus. When I arrived at the outer anchorage, I mentioned to my Lord Gambier, that, as there could be no jealousy with respect to Admiral Stopford, it would be a matter essential to the service to send the Admiral in with the frigates or other vessels, which his Lordship thought best, as his zeal for the service would accomplish what I considered yet more creditable than any thing that had been done. I apologized for the freedom I used with his Lordship, and stated, that I took that liberty as a friend; for it would be impossible, things remaining as they were, to prevent a noise being made about it in England. I said,—My Lord, you have before desired me to speak candidly to you, and I have used that freedom. I have no wish or desire but for the service of our country. To which his Lordship replied, that if I threw blame, it would appear like arrogantly claiming all the merit to myself. I assured his Lordship I had no such intention, aed mentioned to him, at the same time, that it was not my desire to carry the dispatches, or to go to London with Sir Harry Neale on the occasion. His Lordship immediately after delivered to me an order directing the above. When I weighed, I had the satisfaction to have it reported to me, (I do not remember positively whether I saw it or not) that the signal had been made for Admiral Stopford, which I concluded to be for the purpose of going in with the frigates.

Admiral Young—Was it a signal for the Admiral to go to him?

A. The signal, I think, was made for Admiral Stopford to come on board the Caledonia, but that was immediately after I left his Lordship. I immediately remarked to the officers about me, that now the business would be done.

Admiral Young—We should not hear what passed between your Lordship and others.

A. The signal was made for Admiral Stopford; but whether to execute the above purpose by the frigates, or other means, I do not, from my own knowledge, know.

(On the latter part of the evidence being read over,)

Admiral Young—The words would seem to imply that you had seen the lights; which is not what you mean?

A. I did not see them: they were reported to me.

President—It may be understood, though it is not so clear as it might be made. Lord Gambier,—the Court have no further questions to propose to Lord Cochrane: has your Lordship any wish to propose any questions to him?

Lord Gambier—At present I have none: but I shall have some questions to propose to Lord Cochrane, at some other time.

President—You do not wish to propose any, by way of cross-examination, now?

Lord Gambier—No, Sir, I do not.

Lord Cochrane—I will only add, that I again respectfully mentioned that which I had before stated to Lord Gambier, when I took my leave of him on going on board the Imperieuse.

Mr. Bicknell—I would submit to the Court, whether it is necessary that I should call any more witnesses on the part of the prosecution. I mean to ask a general question of my Lord Gambier's Captain and some others, whom I understand Lord Gambier means to call as his witnesses.—I propose, therefore, taking the opportunity of their being so called.

President—If you do not wish to call any more witnesses on what is called the prosecution; perhaps his Lordship, not being aware that it would end so abruptly (it being now announced by Mr. Bicknell that he wishes to call no other witnesses), will wish to take till to-morrow morning.

Lord Gambier—I should think it would be advisable, that any questions proposed to be put on the side of the prosecution, as to any thing which can criminate me, should be put before I begin my defence.

Mr. Bicknell—It is not, as to any particular circumstance which will criminate your Lordship; it is only a general question.

Lord Gambier—I should wish to know what that question is, because it may be necessary for me to explain in my defence, the point referred to by that question.

Mr. Bicknell—With the permission of the Court I will call Admiral Stopford now, and put the question to him; the question will be the same to the other officers.

[The witness withdrew.

Rear-Admiral the Hon. Robert Stopford called in.

Examined by Mr. Bicknell.

Q. Having heard the orders from the Lords Commissioners of the Admiralty to the Commander-in-Chief to attack the enemy's fleet in Basque Roads, and the letter stating the result of such attack, and the charges preferred against his Lordship read, you will be pleased to state to the Court, whether you know of any neglect or unnecessary delay on the part of the Commander-in-Chief, in taking effectual measures for the destruction of the enemy's ships, or any deficiency in any part of his Lordship's conduct between the 17th day of March and the 29th day of April, 1809; or whether it appears to you, that he used every means in his power to carry into effect the above-mentioned orders?

Admiral Stopford—Is it necessary I should enter into a detail of the events, or answer that in short?

President—The question is a very general question.

Judge Advocate—If you think it necessary to state any thing to the Court, you will of course enter into the detail of that.

A. Under all the circumstances of the case, viewed in every point which I am capable of, and giving to the Commander-in-Chief the free use and exercise of that discretion which every Commander-in-Chief must possess, in the execution of those measures for which he alone is responsible, I do not think there was any delay or deficiency on the part of the Commander-in-Chief, in executing the service entrusted to his Lordship's care.

Admiral Young—Was the fleet in Basque Roads unmoored previous to the going in of the frigates on the 11th?

A. The first part of that day they were unmoored.

Q. Do you know why they were unmoored?

A. In the conversation I had with the Commander-in-Chief, at the time of unmooring, on board the Caledonia, I understood it was for the purpose of being ready to take advantage of any favourable circumstance in which the fleet could act: I must also add, that there were some conversations which, however, had no practical effect, as they were not carried into execution; respecting making a shew of the fleet getting under weigh, in order to deceive the enemy, as I apprehend, for the purpose of preventing the enemy's boats from coming out to intercept the fire ships that were to go in that evening.

Q. Was the fleet moored again in the course of that day?

A. Yes; the signal was made and the fleet moored, except the Cæsar, near about sunset on that day; the reason the Cæsar was not moored, was on account of her having the launches and the boats of the fleet hanging by her: I veered two cables for her greater security, considering the freshness of the breeze: another

reason why the Cæsar was not moored was, she was lying at one extremity of the line, and could have sheared in that direction, without risk of running on board any other ship.

Q. Do you know what induced the Commander-in-Chief to order the fleet to be moored again; or if you do not know his reason, did you see any sufficient cause for its being done?

A. The Commander-in-Chief did not at the time communicate to me his reasons for mooring the fleet, but from the close order in which some part of the fleet were originally moored, and considering also the strength of the tide, I think there might have been some risk of the ships nearest to each other, getting on board of each other, had they remained at single anchor.

Q. The morning after the fire-ships were sent in against the enemy's fleet, some signals or telegraphic communications were made from the Imperieuse, to the Commander-in-Chief—Do you recollect what they were?

A. I must in the first place acquaint the Court, that I must speak upon this subject of the signals more from recollection than my signal-log, for the signal officer of the Cæsar was sent in one of the fire-ships at that time, and had not returned, and the signals made were not put down correctly. I do sufficiently know the signals made to speak to them with a tolerable degree of accuracy, but it is from recollection and from information of the Captain.

Q. Officially reported to you by the Captain of the Cæsar?

A. Yes; the first signal reported to me to have been made by the Imperieuse was, as well as I can recollect, "Seven of the enemy's ships on shore, the fleet can destroy them;" soon afterwards the same repeated, with "Half the fleet can destroy them:" I cannot say exactly the number of the enemy's ships stated. That was the first part of the morning. Does the question go to what signals were made in the course of the day?

Admiral Young—Any other in the course of that day?

A. These were from half after six to nearly eight o'clock, as nearly as I can recollect. I do not recollect any other signal made by the Imperieuse till she was under sail, between half past twelve and one o'clock, or thereabouts, the same day, and standing in towards the enemy, the Imperieuse made a signal "that the enemy's ships were superior to the ships in chase, but inferior to the fleet united;" also, "that the Imperieuse was in distress, and wanted immediate assistance;" which was made the first of those two I cannot take upon myself to say.

Q. Did you see, or was it at any time in the course of that day officially reported to you, that the Imperieuse had informed the Commander-in-Chief, by telegraph or signal, "that two sail of the line would be sufficient to destroy the enemy."

A. No such signal was ever reported to me to have been made, or any such communication to have been delivered, to the Commander-in-Chief.

Q. Was any official information given to you of the Commander-in-Chief having recalled the Imperieuse on the morning of the 12th?

A. No such official communication was ever made to me.

Q. The Revenge, the Valiant, and the Cæsar, are stated to have been sent into the Road of Aix—Did they go in?

A. They went in at different times of the day, the Cæsar some hours after the Revenge and Valiant; a fourth ship, the Theseus, went in a little before the Cæsar.

Q. Were they recalled by signal, or by any other means, by the Commander-in-Chief?

A. They were recalled by no order from the Commander-in-Chief, but came out, a part of them by directions from me—the Theseus and the Valiant; and I must also add, that I ordered the Revenge to come out, but I am not sure whether Captain Kerr received my orders; the ship came out the next morning.

Q. What was your reason for calling those ships from the service on which they were ordered, without directions from the Commander-in-Chief?

A. The imminent and evident danger to which the ships were exposed, by a longer continuance in that anchorage; also the certainty that they could not be employed with effect in the further destruction of the enemy's ships.

Q. Did you consider the danger to which they would have been exposed by remaining there to be occasioned by the enemy's batteries, or the badness of the roadsted, or both?

A. From both. The preceding evening, when the Cæsar was going in, the ship got ashore, and remained there 3 hours within range of shot from the enemy's batteries, and this contrary to the expectation of the pilot, who told me there was sufficient water there. The Captains of the Theseus and Valiant also informed me, on that evening, that their ships had been aground.

Q. On what shoal was the Cæsar aground?

A. It must either have been a continuation of the Boyart shoal, or else a separate bank in the direction of that shoal; at the time we got ashore, it was nearly dark, and the enemy did not perceive our situation—that we were on shore; and therefore only one shot from the batteries went over the ship after she struck the ground: if it had been day-light, I should have despaired of getting the ship off.

Q. Did you know, that within the road of Aix there was an anchorage capable of containing six sail of the line, perfectly out of the reach of shot or shells from any of the enemy's batteries?

A. Previous to our frigates going in, I certainly did not know it, although some pilots were of opinion there was, and others that there was not; and respecting the number of ships that place was able to contain, I have understood it never contained more than four ships with five fathom at low water, out of the

range of shot or shells. I must add, that had I known of that anchorage before I went in with the Cæsar, I should have expected little good to arise from any of the ships going there, as it was completely out of the reach of annoyance to any of the enemy's ships that were on shore.

Q. One of the reasons you have given for withdrawing the ships from the Road of Aix was, that they could not be employed with effect in the further destruction of the enemy's ships —Were you, before it was dark, in a situation from which you could so see the enemy's ships, as to feel quite satisfied that ships of the line could do them no more mischief?

A. Before I went in, and in going in; I observed the enemy's ships which had not struck, had gone in so near to the batteries of the Isle d'Aix; and being also in a part of the anchorage with which we were very imperfectly acquainted, except from having seen a French ship wrecked on the Palles shoal; some weeks before I was of opinion, that both with respect to the navigation, and the exposure from the batteries, the ships could not have been employed with effect, without imminent risk of their safety.

Q. You have commanded a squadron for a considerable time in Basque Roads?

A. I have.

Q. Have you had an opportunity of ascertaining correctly how much the tide rises at spring tides?

A. We generally estimate it from 18 to 21 feet, according to the set of the wind at the time of full moon, the north-west winds making the tide higher.

Q. When the Imperieuse made the signal in the morning, that the enemy's ships were on shore, and the fleet might destroy them, would you, with the experience you have had as a flag-officer, have thought it prudent or proper to lead in the fleet to destroy them?

A. In my opinion, the dislodgment from their anchorage of the enemy's ships by fire-ships, removed but a very small part of the obstacle which ever existed in my mind, and in those of other officers who have commanded before me, towards the British Fleet going in to attack them; the difficulties of the navigation, and our imperfect acquaintance with it, with the wind right in, would, I think, have made me unworthy of command, if I had risked a fleet or a squadron entrusted to my charge, in a situation where our's would have been only the loss, and the enemy's all the advantage.

Q. When the Imperieuse afterwards made a signal, or informed the Admiral that half the fleet would be sufficient to destroy the enemy, would you have carried in half the fleet?

A. In this and the former answer, I must be considered as speaking of the state of the wind chiefly; that my conduct, as commanding officer of the squadron, would have been governed chiefly by the state of the wind.

Admiral Young—My question was, under the circumstances at the time?

A. With the wind as it then was, and with the broadside of three ships still commanding the passage, I think I should have been so crippled in going in, and also so crippled in endeavouring to work out, with a passage a little more than a mile and an half in breadth, that I think I should not have risked the attack, had they been under my command.

Q. When the Imperieuse made the signal of being in distress, and wanting immediate assistance, were any ships immediately sent to assist her?

A. I will not pretend to say, whether the frigates that were ordered in by the Commander-in-Chief were ordered in before or after that signal; but there were several of the vessels under way nearly about that time going in. I do not recollect any signal having been made immediately by the Commander-in-Chief, in consequence of that signal of the Imperieuse.

President—Lord Gambier, do you choose to ask any questions of Admiral Stopford?

Lord Gambier—Not at present.

President—Whom else do you call to ask this general question?

Mr. Bicknell—I think I need not go any farther in calling witnesses.

President—But you reserve to yourself a right of putting this general question to the witnesses called by Lord Gambier?

Mr. Bicknell—Yes.—The case is now closed on the part of the prosecution.

President—No; the Court will wish to ask one or two questions to-morrow morning.

[*Adjourned to to-morrow morning nine o'clock.*

THIRD DAY,

FRIDAY the 28th of JULY, 1809.

Captain Lord COCHRANE called in again.

ADMIRAL SUTTON—Are the charts produced in Court by your Lordship, namely No. 2 and No. 3, copied or taken from the chart, No. 1, which your Lordship produced in Court?

A. They were copied by a pencil, and afterwards a pen passed over to make black lines.

Q. From No. 1?

A. Yes; from No. 1. The soundings are not marked upon this; it was merely to shew the positions of the fleets; there was a large sheet of black paper put between, and it was scratched over.

Q. Do you mean by black paper, oiled paper?

A. I do not know, it is such paper as they have for copying letters.

Q. Are these two charts a *fac simile* of No. 1?

A. They were taken from that by a person whom I paid for the purpose; his name I do not recollect, but he is a common chart-drawer in London; and I marked the positions of the French ships upon it when he had done.

Q Did he do that in your presence?

A. He did some of it at the table with me, and he took one home with him; I have one which he sent down to me by the mail, drawn from a copy which he took himself; but these are two which he did actually take from the chart itself. I put in the positions of the French ships (which ships were at the hour mentioned on these charts in the positions in which they appear) as nearly as it was possible to do it; and the British fleet was taken as it appeared from the Imperieuse when anchored at the end of the Boyart shoal, about half past eleven o'clock, on the morning of the 12th.

Q. Are the representations of the ships marked by your Lordship, or by the person who made the chart?

A. Positively they were marked by myself, he had nothing to do with it; they were never seen by any body who could take

advantage of inserting any marks, they were seen by none except those in whom I could place the most implicit confidence. The frigates which appeared to be near the Imperieuse, and close to the Boyart, had weighed with the Imperieuse in the morning, and were at that hour with the fleet.

Q. There being no scale upon either of these copied charts, nor no marginal indication of degree, by what scale or rule did your Lordship place the figures of the ships as represented here?

A. By the scale of the chart, of which they are copies, which is the same in size, and now before the Court, marked No. 1; the distance of the brigs from the Imperieuse I measured by the flight of shot, and I believe it to be nearly correct; the distance of the Calcutta, Varsovie, and Aquilon was ascertained by the point blank range; our shot did not reach the Tonnére.

Admiral Sutton—I only asked your Lordship by what rule or scale it was done; I do not wish to go further than the question I put, and that is answered.

Lord Cochrane—I wish to shew the mode in which I measured the distance, and what I measured by the eye.

Admiral Sutton—Certainly, if you think it will explain it.

Lord Cochrane—Our shot did not reach the Tonnére, which the enemy kindled themselves; the three-decker was towards the north-east, a little further off, she having warped over by hawsers, and got into that position by the force of sail and other means; for she had a parcel of boats a-head of her pulling her along, perhaps she might have hawsers also: when I say the Aquilon was within point blank range, she might be a little otherwise; but I remember to have brought the horizon above her—the people were firing right over.

Admiral Young—There are references, but there are no marks.

Lord Cochrane—I had some doubt as to the propriety of laying them at all before the Court, and I have not marked them; there is one marked, I think, and the references would be the same to both.

President—There are several references there without any mark to shew to what they apply.

(Lord Cochrane made the marks upon the charts.)

Lord Cochrane—I did not intend that these charts should represent the soundings at all.

President—No, so we understand, merely as outlines to mark the positions.

Rear Admiral the Hon. Robert Stopford, called in again.

Admiral Young—When the signal was made by the Imperieuse in the morning of the 12th, that the enemy's ships were on shore, was any thing done by the British fleet in consequence of it?

A. Shortly after the signal was made by the Imperieuse, the Commander-in-Chief made the signal to unmoor; but I cannot speak to the exact interval of time between the two signals: afterwards the signal was made to weigh, and the fleet moved in consequence nearer to the Isle d'Aix, as the Commander-in-Chief informed me, for the purpose of being more in a situation to observe himself the motions and proceedings of the enemy, and with the intention of going in with the fleet, if the wind had shifted so far to the eastward as to allow the fleet to come out again, for which event the Commander-in-Chief expressed the greatest impatience and desire.

Q. At what time was it the Commander-in-Chief informed you of his reasons for going in?

A. It was some time between the hours of eight and ten in the forenoon of the 12th, when I was on board the Caledonia.

Q. Did the fleet anchor again?

A. The fleet anchored rather more than three miles, or about three miles, from the Isle d'Aix.

Q. At the time when the fleet anchored again, would it have been prudent or proper to have sent half of it in to destroy the enemy?

A. For the reasons I yesterday stated in my evidence, in answer to that question, I think it would not; but the Commander-in-Chief desired the Ætna bomb, and the other smaller vessels to proceed in to bombard the enemy's ships that were lying on shore, giving directions also to the Captains of the Valiant, Revenge, Bellona, and some other ships whose names I do not exactly recollect, to advance towards the Boyart shoal, in order to support the operations of the bomb-vessel.

Q. Did the ships and vessels so ordered to advance proceed without anchoring when the fleet anchored?

A. The Ætna and smaller vessels immediately proceeded to bombard the ships without anchoring; the line-of-battle ships did not proceed till subsequently ordered by signal; they anchored.

Q. You have said directions were given to some other ships to proceed: were those directions by signal, or in what manner?

A. To the Captains on board the Caledonia by the Commander-in-Chief in person, and in my hearing.

Q. Were the directions given the same to all of them, or was any distinction made between the directions given to the

Captains of the line-of-battle ships and the directions to the Captains of the smaller vessels?

A. As they were directions which could only be executed according to the skill of the Pilots, who were sometimes extremely ignorant; the orders given to the Captains of the line-of-battle ships were, of course, given discretionally to them, to go in as far as they thought safe, or as far as they could confidently depend upon their Pilots.

Q. At the time of hearing those orders given, did you understand it to be the intention of the Commander-in-Chief that every ship, of every description, so ordered, should go in as soon and as far as the discretion of the Captain would admit?

A. From the general signal having been made for ships to prepare for battle, with springs on their cables, and to bend their sheet cables through the stern ports, also from the conversation I had with the Commander-in-Chief, and witnessing his impatience and disappointment at circumstances not allowing him immediately to go in with the fleet, it was my full conviction that such were the Commander-in-Chief's intentions, that the ships should go in as far as they could, and as soon as they could.

Q. Do you know from the Captains of those ships of the line their reasons for not going immediately in?

A. I do not recollect ever to have heard those reasons distinctly stated.

President—What were the ships or vessels that did accompany the Ætna when she went in?

A. By name, as well as I recollect, they were the gun-brigs, the ———

President—I do not think it necessary to enumerate all their names?

A. Chiefly gun-brigs, and some men of war brigs.

Q. Will you add whether any frigate or frigates went in?

A. Afterwards every frigate went in, in consequence of signals from the Commander-in-Chief: the brigs went in first and the frigates afterwards.

Q. How long after the brigs, sloops, the gun-brigs, and the Ætna went in, was it that the frigates went in by general signal?

A. I do not think it could exceed half an hour.

Q. At what time did the line-of-battle ships go in, and which were the line-of-battle ships?

A. I think it was between———

President—I mean how long after the frigates: the exact moment of time is not so material?

A. I do not think it was half an hour when the Valiant and and Revenge went in.

Q. Being two of the ships previously appointed?
A. They were two of the ships previously appointed, and which were in advance.

Admiral Sutton—When the fleet came to an anchor, at the distance you have mentioned from the Isle d'Aix, what was the state of the weather?
A. Fine weather, a fresh breeze from north to north north west.

Q. And the tide running?
A. Flood tide.

Q. At the time of the fire-ships being sent in on the evening of the 11th what was the state of the weather?
A. Squally, with strong breezes from north to north west, and so much sea that few boats could pull against it.

Q. If report was made to you, how did it continue till day-light in the morning?
A. Being up all the night, I observed the wind to be still fresh till twelve o'clock; it moderated a little during the night, and freshened up again about day-light in the morning.

Q. You mention the frigates being sent in after the brigs and the smaller vessels—Did they proceed by signal?
A. All but the Imperieuse.

Q. Did the line-of-battle ships proceed in by signal?
A. They did.

President—Does your Lordship wish to ask any question of Admiral Stopford?

Lord Gambier—With respect to my own conduct, I have no wish, but I think it is due to the officers of the fire-ships, to put a question as to their conduct, which, I aver, was highly meritorious.

President—The question as to their conduct is not the matter of enquiry before the Court; but if your Lordship has any wish to put a question to shew their meritorious conduct, I am sure the Court will make no objection: it is not relevant to the business before the Court, but I believe I can say the Court will not object to such a question.

Lord Gambier—I would ask Admiral Stopford, if, it blowing a gale of wind from the northward, with a high sea, the night extremely dark, with great difficulty, if any communication to be kept up from ship to ship; in his opinion, was the service upon which those officers and men were employed in the fire-ships extremely hazardous, and attended with so much danger as to give reason to apprehend that they could not return?

President—I think it should be added, on the evening of the 11th of April?
Lord Gambier—Certainly.

A. Being directed, on the evening of that night, to take the direction of the launches, and all the boats of the fleet, they were assembled on board of the Cæsar: but there being so much wind and sea that I thought they could not act with effect in support of the fire-ships, I directed the Captain of the Cæsar, about sunset on that evening, to go to the Commander-in-Chief, and suggest to his Lordship, from me, the propriety of the boats remaining on board the Cæsar till I thought they could act with effect, of which his Lordship approved; and I selected a boat belonging to the Hero, the best rowing-boat I could find, to go to the Imperieuse, to acquaint Lord Cochrane of such intention of keeping the boats, and desiring his Lordship to send me word back by the boat if he wanted any other assistance: the weather was so bad as to prevent the boat returning that night. With respect to the hazardous undertaking of the fire-ships, that was too much exemplified in what befel the fire-ship fitted out by the Cæsar: she went in before the explosion-vessel, and before the Mediator; getting near the French fleet, she brought to, seeing no other vessel near her, until the explosion-vessel blew up close to her, killed two men on board of her, and damaged and indeed ruined one of the boats in which the men were to come away from her; the men were therefore crowded in the remaining boat, by which they had to come away; the acting lieutenant and one man died in the bottom of the boat from fatigue, and the others were picked up by the Lyra, which drifted in towards the French fleet, nearer to the French ships than any other vessel of the fleet.

Lord Gambier—I am sorry to detain the Court———

Admiral Young—Before your Lordship proposes another question, will you give me leave to put one upon this subject—As that which occurred to the fire-vessels did not pass under your observation, inform the Court how you came by a knowledge of it?

A. From the individual and frequent examination of the officer and every man who returned; and comparing their accounts together, the result of which I communicated to the Commander-in-Chief, which left no doubt in my mind of such being the fact.

Q. Did you receive it as the official report of the commanding officer of the boat?

A. I did, as nearly as I can recollect.

Lord Gambier—I feel it necessary to make an apology for entering into this, which may appear extraneous matter; but I am sure every officer will enter into my feelings upon the occasion. I will only ask Admiral Stopford whether, under the circumstances at the time as before-mentioned, it was not surprising, that so large a proportion of the fire-ships passed through the enemy's fleet, and that so small a number failed.

A. Every circumstance was extremely favourable for the fire-ships acting, and therefore I took it for granted, that when

once placed properly, they must inevitably go down upon the enemy's ships. This has no reference to the men coming away—so far it was unfavourable.

President—Was the situation of the Cæsar near to the rendezvous of the fire-ships previous to their being sent upon service?

A. The Cæsar did not change her situation before these operations took place, and I do not think was in a nearer situation than the ships of the squadron in general.

President—I only thought that, probably, from the boats being lodged with you, you might be nearer than the other ships—Did you observe generally the manner in which the fire-ships were conducted towards the enemy?

A. As far as my observations went that night, the fire-ships seemed all to have answered the purpose of harrassing the enemy; although I did afterwards hear that some of them were set fire to at too early a period.

Judge Advocate—What the Admiral heard is not strictly evidence.

The latter part of Admiral Stopford's answer was erased.

President—From your own observation, did it appear to you, that every fire-ship was conducted with equal ability and resolution towards the enemy?

A. It was impossible for me or any person, I think, to form any opinion of the conduct of every fire-ship: in the general blaze of fire which took place, many objects were so confounded, that it was out of the power of any person accurately to ascertain the conduct of the fire-ships at the two distinct times of being under command, and being left to drift—therefore I cannot answer that question satisfactorily to my conscience.

President—Nothing more can be required of Admiral Stopford, than that knowledge which you possess from the observation you were enabled to make, from what you really did observe—Did it appear to you that any fire-ships were set fire to at too great a distance from the enemy?

A. Some were certainly set fire to before it appeared to me that they had run so near to the enemy as others had; but it was impossible for me to say whether they were too far from the enemy or not; the enemy's lines soon began to be scattered; they cut, and the ships might be going in properly for one part of the line, though improperly for another, which I might be then looking at; I can speak only so far as my observation goes.

Admiral Sutton—What time was it when you passed the Boyart shoal in the Cæsar?

A. It was just dusk.

Q. At what distance did you pass from it?

A. We passed as near to it as we could, to avoid the batteries of the Isle d'Aix.

Q. It had been supposed that you could brush it quite close to that part which shews itself, therefore I was desirous of knowing?

A. I think we passed it within less than a quarter of a mile of the part which shews itself, or is visible at near low water.

Q. Did it happen that a report was made of the depth of water at that time?

A. We carried in about eight fathom; shoaled suddenly to five fathom; and the next casts were on shore.

Q. Did you receive any shot from the Isle d'Aix?

A. For one mile of distance in the passage the shells were crossing us from each side, from Oleron and from Isle d'Aix, but they crossed us more from the Isle d'Aix side.

Q. Did it happen at that time, that a judgment could be formed by the fire presented to you from Isle d'Aix, of the force opposed to you in passing by the battery of Isle d'Aix?

A. They did not fire their guns fast, but they used in general single shot, occasionally; and I think for the mortars, four were kept playing upon us.

Q. Did the single shot pass far?

A. The shot from Isle d'Aix passed over the ship not far.

Mr. John Spurling, Master of the Imperieuse, called in again.

Examined by Mr. Bicknell.

Q. Did it appear to you at the time of the attack upon the enemy's ships which had got a-ground (the Imperieuse being one of the attacking ships) that there was a safe and sufficient anchorage for ships of the line in the inner road of Aix (without the range of shot and shells from the batteries on shore) to have enabled them to destroy the two ships of the enemy which were seen at anchor on the morning of the 12th of April, and the other ships that had grounded; and, if so, be pleased to point out such anchorage to the Court, and the depth of water: and how many line-of-battle ships might have anchored there, and by what means you obtained such knowledge?

A. On the morning that the Imperieuse retreated out of the reach of the Varsovie and the Aquilon (the morning of the 13th), both the Aquilon and Varsovie having been on fire, we worked from the Palles shoal, where the Imperieuse was at anchor at the time of the action, in five fathoms water; it was high water when we anchored, which was about two o'clock; in standing towards the Island of Aix, the sounding given by the men at the lead, to the best of my recollection, from six and a half to seven

fathoms; the depth might be more towards the Island, but as we did not stand very close, I could not ascertain: when we anchored (which was out of the reach of shot and shell) we lay in five and a half fathoms at low water; there was then (about the distance from three to four cables nearer towards the Palles than the Imperieuse had anchored) a good berth for three or four sail of the line to anchor in in five and a half or six fathoms dead low water; the marks for such anchorage I took myself, which are the stern of the wreck which is on the Palles, the Jean Bert directly on with the square tower of Fouras, and the windmill or telegraph, I cannot exactly say which, on the flag-staff of the Island: I think it was a telegraph, I think there had been no windmill there.

Q. State the means by which you obtained such knowledge—was it by observation?

A. Yes; I did not know it before, only by the appearance of the chart; but I did not choose to trust to it, but wished to prove it.

President—What time of tide was it when you weighed, from what you called the inner road of Aix?

A. About the last quarter flood, rather nearer high water.

Q. Was the wind fair for you to lead out towards the Isle d'Aix, or did you work out?

A. No; we worked out.

Q. Did you keep your lead going while working out?

A. The whole of the time on both sides.

Q. What water did you find in working out between the tail of the Palles shoal, and the shoal towards the Boyart, as you stood to and fro?

A. From six and a half to seven fathoms.

Q. It being then about three-fourths flood?

A. Yes, very near high water.

Q. Had you ever an opportunity of ascertaining correctly what is the rise of the tide in the neighbourhood of the Isle of Aix at spring tides: I do not mean what you may have heard, but what you know yourself, if you have had an opportunity of ascertaining it?

A. I had not—I did not ever try it.

Admiral Young—When you were in six fathoms, turning out from the anchorage from which you retreated, how near were you to the batteries of the Isle of Aix?

A. Something less than half-range of shot—half of the level range.

Q. You mean that the shot would go just as far beyond you?

A. Yes: I think it would be rather further; something less than half the range of point blank shot.

Q. How many tacks did you make in going out?

A. I cannot exactly say to a single tack, but I think four or five.

Q. Then you were four or five times, as you suppose, within half point blank range of the batteries of Isle d'Aix?

A. The last two tacks we might be further; because, as we worked out, we might be at a greater distance.

Q. How long were you at anchor within the Isle d'Aix?

A. From two o'clock on the 12th, until about three or four o'clock on the 14th.

Q. Then you had time to observe the number and the state of the batteries on the Isle d'Aix—How many were there, and in what state were they?

A. I could not exactly observe the number nor the state, as my duty in attending to get the rigging of the ship repaired after the action, prevented my making any observations.

Q. Did you make no observation before you began to engage?

A. Yes: on the morning of the 12th, prior to the Imperieuse proceeding to annoy the enemy then on shore, I was desired by Captain Lord Cochrane to lay a buoy on the Boyart shoal, which I did in six and a half fathoms water, a sufficient distance to allow any ship to tack round that buoy; after which I observed on the Isle d'Aix about twenty or four and twenty pieces of cannon to be mounted; but well knowing the execution that those guns would do would be very little to any ship passing that battery that made any opposition against it, they being only placed upon an open platform, as it appeared to me with my glass in the boat.

Q. By tacking round, do you mean between the buoy and the shoal?

A. Yes; that she might shoot round.

Q. Did you observe any material, or any considerable part of the works of the Isle d'Aix to be blown up and destroyed?

A. I did.

Q. In what part of the Isle d'Aix.

A. On the part that flanked you as you ran along the shoal in running in.

Q. Do you mean the Boyart shoal?

A. The shoal of the Boyart.

President—Lord Gambier, do you choose to ask the witness any questions.

Lord Gambier—I would beg to ask, whether the Imperieuse grounded on the night of the 12th of April?

A. Yes, on the tail of the Palles shoal.

Q. At your anchorage, I presume, where you had been firing upon the French ships?

A. Yes; but not until the last quarter ebb.

Q. At about what time was it she first struck?

A. About seven or half-past seven in the evening that we touched; but there was nothing to hurt her till about eight or half-past eight, when she appeared to strike a great deal.

Q. She struck hard?

A. Yes; she shook a great deal, drawing a great deal of water aft, more than forward.

Q Did any person whatever communicate to you, before you surveyed it, the anchorage before-mentioned, for three or four sail of the line, or was it a new discovery?

A. I discovered it myself, being ordered to sound round the ship, at such a distance as I expressed in answer to a question before asked.

Q. Was it known before the Imperieuse went in, that there was such an anchorage?

A. Only by a view of the French chart, as we had no French pilot on board, nor ever took any.

Lord Gambier—I have nothing further to ask him at present.

Capt. Wolfe, of his Majesty's frigate L'Aigle, sworn.

Examined by Mr. Bicknell.

Q. Did it appear to you at the time of the attack on the enemy's ships which had got a-ground, that there was a safe and sufficient anchorage for ships of the line in the inner road of Aix, without the range of shot and shells from the batteries on shore, to have enabled them to destroy the two ships of the enemy, which were seen at anchor on the morning of the 12th of April, and the other ships that had grounded; and, if so, be pleased to point out such anchorage to the Court, and the depth of water, and how many line-of-battle ships might have anchored there, and by what means you obtained your knowledge?

A. I knew nothing of the inner anchorage but from the pilot's information, on the day the attack was made on the enemy's ships in Aix Roads; but after we had got in, at the time of the attack, I think, if the ships had remained there, without removing to the second anchorage, they must all have been destroyed by the shot and shells from the batteries in the Isle d'Aix. At the second anchorage———

President—What do you mean by the second anchorage? that we may have a just comprehension.—The first was on the tail of the Palles?

A. Yes; the second anchorage I call where the squadron remained till they were withdrawn.

Q. Where the Imperieuse and the other ships remained?
A. Yes.

Q. That was further to the southward than where you were before?
A. Yes; east from the first anchorage, at the distance of a mile or so; in the second anchorage (having been there fifteen days after the enemy's ships were burnt), I think four or five sail of the line might have lain clear of the enemy's batteries, but they must have been moored very short and very close, with other smaller vessels to fill up the intervals. I lay there with the Pallas and fifteen or sixteen brigs, gun-brigs, cutters, and schooners. I was sent in on the 13th. I call the anchorage of the Isle d'Aix where the enemy lay; but this is a different anchorage, of which we knew nothing before.

President—During the time you remained at the second anchorage, had you an opportunity of ascertaining what was the rise of the tide on spring tides?
A. Upon the average of the time we were there, I suppose the rise and fall was from fifteen, to sixteen, seventeen, and eighteen feet.

Q. During the time you continued at this anchorage, did you cause soundings to be taken between the Palles and Boyart shoals?
A. I received orders from Lord Gambier to assist Mr. Stokes, the Second Master of the Caledonia, with boats and whatever Mr. Stokes might require in surveying the anchorage.

President—I more particularly allude to the supposed shoal water there is between these two shoals; if what you are going to mention comprehends what I particularly allude to, you will proceed—Would the casting your eye upon this chart give you a clearer comprehension?
A. No; I have it all in my mind; I received those orders to assist Mr. Stokes in surveying the anchorage, which was done with the assistance of our Master and others, whomever Mr. Stokes applied for.

Q. What was their report of the depth of water, at any particular time of the tide, in the situation I have pointed out between the Palles and the Boyart, if you have a recollection of it?
A. I do not recollect any particular remark of Mr. Stokes or our Master, excepting Mr. Stokes having said he had found deeper water and a little more room farther to the southward?

President—I believe what you are stating applies more to the anchorage than to that which I am enquiring about; it appears by this chart as if there was a shoal between the Road of Aix and this other situation *(pointing it out)*; what I wish to know is, what water there was upon this bar or bay *(shewing it upon the chart)*?
A. That does not come within my knowledge; in the parti-

cular part to which the question alludes, with the exception of the Cæsar having grounded much about the spot pointed out in the chart shewn me by the President, I will not take upon me to say the exact situation of the Cæsar grounding: I speak within half a mile.

Mr. Bicknell—Did it appear to you that the Commander-in-Chief for a considerable, or for any, time neglected or delayed taking effectual measures for destroying the enemy's ships after they were on shore on the 12th of April last, and the signal made by the Imperieuse that they could be destroyed.

A. No.

Q. Did it appear to you that any blame was imputable to my Lord Gambier, for any part of his conduct or proceedings, as Commander-in-Chief of the Channel fleet employed in Basque Roads, between the 17th of March and the 29th of April last?

A. I have no recollection of any thing of the kind.

President—From the first attack upon the enemy's ships to the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. I think there was, with the class of vessels that were present.

Q. Do you know then of any vessels being withheld, which might have been applied to that service?

A. None whatever; when I speak of the class of vessels that were present, I mean to say there were no vessels under his Lordship's command with a draft of water that could have further effected the destruction of the enemy's ships; every application that I made to his Lordship, to effect their destruction, was always complied with.

President—Does your Lordship wish to put any question to Captain Wolfe?

Lord Gambier—None at present.

Captain John Tremaine Rodd, of his Majesty's frigate the Indefatigable, sworn.

Examined by Mr. Bicknell.

Q. Did you, before you went in to the attack of the enemy's ships, or at any time afterwards, and when, know of any anchorage within the Isle of Aix, where six, or any other and what number, of line-of-battle ships could have anchored out of the range of shot or shell from the batteries on shore?

A. I never did, and never knew that line-of-battle ships could lie there, until I saw the frigates after the action move to the anchorage they took up.

President—The seeing of frigates there could be no proof that the line-of-battle ships could lie there?

A. No; I never knew that line-of-battle ships could lie

there, for I do not know the depth of water; I did not know that the frigates could lie there clear of shot or shell until that time.

Q. Did it appear to you that the Commander-in-Chief for a considerable, or any, time neglected or delayed taking effectual measures for destroying the enemy's ships after they were on shore on the 12th of April last, and the signal made by the Imperieuse that they could be destroyed?

A. I know of no delay.

Q. Did it appear to you, that any blame was imputable to my Lord Gambier for any part of his conduct or proceedings, as Commander-in-Chief of the Channel Fleet employed in Basque Roads, between the 17th of March and the 29th of April last?

A. None whatever.

President—From the first attack upon the enemy's ships to the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. I believe every thing with safety to his Majesty's ships.

Admiral Young—When you say with safety to his Majesty's ships, do you mean, without their being exposed to any danger, or without their being exposed to more danger than the circumstances would justify.

A. That they would have been exposed to more danger than the circumstances would justify. I think if they had gone up further, every ship would have been lost, or at least it would have been a thousand chances to one against them; as it was, we were on ground for upwards of an hour in the Indefatigable, and had been striking for an hour before that; and the pilot remarked to me, if I did not warp the ship out, we should be nearly dry; on which I ran out two hawsers, and warped the ship out of the situation in which she was at first, and she grounded again afterwards.

Q. That was upon the Palles shoal?

A. Yes: and in the direction the anchor was laid, I could not find more than five and a half or a quarter less six fathom, according to the Master's report to me. It was then about half ebb—that was after the action was over.

Admiral Young—Did you, on the morning of the 12th of April, see the Imperieuse inform the Commander-in-Chief, by signal or telegraph, that half the fleet would be sufficient to destroy the enemy?

A. I did not. Part of the signal made by the Imperieuse about that time was reported to me, which was, that seven sail of the enemy's line-of-battle ships were on shore; but I do not remember the other signal; I was under weigh at the time, and occupied in working the ship.

Q. At what time did you go into Aix Roads?

A. The signal was made from the Commander-in-Chief for

the Indefatigable to weigh at about two o'clock in the afternoon. I was all ready for weighing, and weighed immediately—shortly after. In a few minutes, a signal was made for the Indefatigable to proceed to a ship that made a signal of distress, and was in want of immediate assistance, bearing south. The wind was light, and we went in with all sails royal and top-gallant studding-sails, and anchored about half after three within the distance of conversation with the Imperieuse, and commenced a fire upon the Calcutta. I believe some of the bow-guns were directed towards the Varsovie.

Admiral Young—I think you must have mistaken my question. A signal is stated to have been made by the Imperieuse at day-break, or soon after day-break in the morning?

A. I was under weigh in the morning for some other purpose, and had anchored at eight o'clock in Basque Roads, having come out from where I was stationed the evening before.

Q. Going in to the situation you mention, near the Imperieuse, were you exposed to fire from the batteries in Isle d'Aix, or did you pass without range of their shot?

A. Their shot went over us, passed a-head and a-stern of us, and the shells from Oleron crossed us.

Q. When you were at anchor near the Imperieuse, were you still within shot from the batteries of Aix?

A. A shot from Isle d'Aix passed through the main-topmast of the Indefatigable, the whole of which measured seven inches, and wounded the main-topsail yard.

Q. Was the situation in which you were placed when at anchor, as good a one as could be chosen for destroying the enemy's ships?

A. For those that I was nearest to (the Calcutta and Varsovie); if I had gone further in I must have run a-ground, by the draft of water of the ship; I had only between four and a half and five fathom water at the half cable; the anchor was nearly in seven, and nearly at the top of high water.

Q. Was it a situation in which ships of the line could have been placed for the destruction of the enemy's ships?

A. Not with safety to the ships, I mean not without the risk of the loss of the ships; for if it had come on to blow, it would have been impossible for them to veer cable.

Q. Was there any other situation in the road of Aix in which ships of the line might have been placed to destroy the enemy, without risk of their being lost?

A. I think not where the enemy were; they were surrounded with shoals, or upon a shoal.

Q. When you were within the Isle of Aix, did you observe the state of the defences of the Island—of the fort?

A. I did; the enemy got more guns, or shifted their guns from one part to the other, at least I thought so; I do not know

exactly the number of guns that were abreast, there appeared to be four flanking guns at each end of the battery, pointing towards the ships at different times: they certainly moved their guns from one part to the other.

Q. Did you observe a considerable part of the works of the Island blown up or destroyed?

A. The works were evidently under repair; but I do not know of their being blown up or destroyed.

Q. At what time did the Indefatigable leave the road of Aix?

A. It appears by the log that we weighed about half after four in the morning of the 13th, the morning after the action; I weighed in consequence of signal being made from Admiral Stopford.

Q. As the Indefatigable was going out of the Road of Aix, did the Captain of the Imperieuse hail her, and propose that the Indefatigable should go on one quarter of the Ocean, that the Imperieuse might take the other?

A. Lord Cochrane hailed the Indefatigable as we were passing along, but what he said I could not distinctly make out; I told him we were ordered out; he asked me, as well as I could understand him, if I had been a-ground, I replied yes; he said, I should like to take your berth (where we had been lying); had he sent a boat to me and proposed a thing of the kind, I could not have thought myself justified in acting, in the presence of two senior officers, without orders; nor do I know that it was possible for the Indefatigable, with her draft of water, to have got near the Ocean, where she was a-ground.

Q. When you were called out by signal from the Road of Aix, could you, if you had remained there, have destroyed more of the enemy's ships?

A. I do not know that we could; I do not think we could have got up to them.

Admiral Duckworth—Did you observe the position of the enemy's two line-of-battle ships that were longest afloat near the Isle of Aix, on the morning of the 12th?

A. There were two afloat.

Q. Did you observe their position?

A. I do not know exactly their bearings to the Island, they were lying there, and got under weigh, or slipt and ran up.

Q. Were they in a situation that line-of-battle ships, without being endangered and the risk of being a-ground and lost, or, being within range, to be essentially injured by the batteries of the Isle of Aix, could have attacked them?

A. I do not know that they would have grounded, but they must have been wholly disabled by the batteries and two line-of-battle ships in coming in; I counted thirteen guns as we passed on the battery.

Q. Had the Calcutta, or any of the enemy's line-of-battle ships, struck to the Imperieuse before you anchored, and commenced the action?

A. Most assuredly not: several broadsides were fired at the Calcutta from the Indefatigable and Valiant, when Lord Cochrane, or some person from the Imperieuse, hailed me, and said the Calcutta had struck. I could only see her at intervals through the smoke: we then desisted firing upon her, and turned the whole of our firing upon the Varsovie, whose colours were never hauled down till she was taken possession of by some of the boats of the squadron. The mode the enemy took to shew that they had surrendered, was by waving an union jack out of the mizen chains: on seeing that, we left off firing.

PRESIDENT—Does your Lordship wish to ask any questions of Capt. Rodd?

LORD GAMBIER—Not at present.

The Court was cleared. In about half an hour the Court was re-opened.

PRESIDENT—My Lord Gambier,—The Court have determined not to call any other witnesses on the part of what may be termed the prosecution. Your Lordship will therefore be pleased to say the length of time you would wish for to make arrangements for calling your own witnesses, and the Court will be happy to attend to your wishes.

LORD GAMBIER—I am not prepared to answer immediately.

PRESIDENT—No, that cannot be imagined.

LORD GAMBIER—I should feel extremely sorry to keep the Court assembled longer than is absolutely necessary; but I am afraid I shall not be ready to proceed to-morrow morning.

PRESIDENT—Then nothing will remain but to meet to-morrow morning for the purpose of adjourning; and of course your Lordship will have till the next day, or the next day afterwards.

LORD GAMBIER—The next day would be Monday: on Monday I have no doubt I should be ready.

PRESIDENT—Then it would be the loss only of to-morrow; as, of course, nothing could be done on Sunday. Your Lordship will do us the favour to meet us to-morrow morning; and you may then say whether you shall be ready to proceed on Monday.

Adjourned till to-morrow morning.

FOURTH DAY,

SATURDAY the 29th of JULY, 1809.

The Court having this day met, *pro forma*, the President addressed Lord Gambier in the following manner:---

PRESIDENT—My Lord Gambier,—The Court have directed me to ask your Lordship, whether you are now prepared to state on what day you will be ready to enter upon your defence!

LORD GAMBIER—I feel much obliged for the indulgence the Court has granted to me. I am exceedingly sorry to be compelled to detain the Honourable Court until Monday; but on that day I shall be fully prepared to enter upon my defence.

[*Adjourned to Monday morning nine o'clock.*

The Positions of FRENCH & ENGLISH SHIPS on the 12th. of April — by — Mr. Edward Fairfax: Master of the Fleet.

NOTE

The Soundings are in Fee unless otherwise expressed, and Copied from a French Chart taken out of L'Armide French Frigate captured in 1806.

True North

Caledonia

30½ Fathoms

B A S Q U E S

R O A D S

The Figures express Fathoms sounded by Mr. Fairfax

Imperiause & advanced Ships

Isle D'Aix

Citadel

Boyart

Aquillon

Ville de Varsovois

Palles Shoal

Tonnere

Calcutta

Wreck of Jean Bart

Enecu Isle

Redoubt

Fouras

Charente River

I. Madame

Fort de Point de Plume

Scale of two Miles

0 ¼ ½ ¾ 1 2 Miles

M A I N L A N D

I S L E O F O L E R O N

Barges

FIFTH DAY.

Monday, July 31, 1809.

President.—All the Witnesses must withdraw.

Lord Cochrane.—With all due respect to the Court, in some former Courts-Martial the Witnesses have been permitted to hear the Defence.

President.—I never heard of such a thing in my life; but the Court have ruled the point.

Lord Cochrane.—The case of Admiral Harvey is a case in point.

President.—Lord Cochrane, the Court have determined the contrary.

Lord Cochrane withdrew.

President.—Lord Gambier, will you now proceed either to read your defence yourself, or to let it be read by any friend you please.

Lord Gambier.—It has been usual that it should be read by others. I will, if you please, give it to Mr. Greetham.

The Judge Advocate read his Lordship's

DEFENCE.

Mr. President,

I thank you, Sir, and the rest of the members of this honourable Court, for having complied with my request, that a short interval might be allowed me before I entered upon my Defence.

I have also to express my satisfaction, that the whole of my conduct and proceedings in Basque Roads, is now under your consideration, in consequence of my

having applied for this Court-Martial. And although I cannot but lament the inconvenience occasioned thereby to the service, and to many individuals, I trust the necessity of it must be evident to the members of this Court; for either I had to adopt this measure, or, by a tacit acquiescence in the insinuations thrown out against me by Lord Cochrane, have compromised, not only my own honour, but also that of the brave officers and men serving under my command.

The proceedings of the Court will shew, whether any misconduct has existed in the execution of the service under consideration; if any has existed (of which I am perfectly unconscious) it is right that the nation should know it; not as resting upon the unsupported opinion of an individual, but on the unprejudiced judgment of this tribunal.

I was prepared, when I first came before you, with what appeared to me, a complete justification "of my conduct and proceedings, as Commander in Chief of the Channel Fleet, employed in Basque Roads, between the 17th March and 29th April last," to which your enquiry is directed; but I could not be aware of the oral testimony, that was to be brought forward in support of the charge, which their lordships have, at the instance of Lord Cochrane, been induced to make against me;—namely, "that on the 12th April, the enemy's ships being then on shore, and the signal having been made that they could be destroyed, I did, for a considerable time, neglect or delay taking effectual measures for destroying them." I was ready to admit, that, from the time of my observing, on the morning of the 12th, the situation of the enemy, communicated to me also by signal from the Imperieuse, some time did elapse before the enemy's ships were attacked; but I was prepared to prove, most incontrovertibly, that no neglect, or unnecessary delay took place in effecting the destruction of those ships; and I have now the satisfaction to find, that out of all the officers of the fleet who are summoned on this trial, the charge rests upon the unsupported, and I may say already refuted, testimony of the Captain of the Imperieuse.

I believe there is not a precedent to be found in the naval annals of Great Britain, of an officer of the rank I have the honour to hold, commanding a fleet which has performed so important a service as that accomplished under my di-

rection; approved as that service has been, by the Board of Admiralty; and considered by his Majesty's government as even deserving the thanks of both houses of parliament; being obliged, from a sense of what is due to his own character and honor, as well as to the profession to which he belongs, to appeal to a naval tribunal against the loose and indirect accusations of an officer, so much his inferior in rank.—I am warranted in saying, that the execution of this service was approved by the Board of Admiralty; because, in a letter from their Lordships' Secretary, dated the 22d April, acknowledging the receipt of my public dispatches on the occasion, he says he is "commanded by their Lordships to congratulate me on the brilliant success of the force under my command, in the attack of the enemy's ships in the Isle d'Aix Roads, by fire vessels, and subsequently by detachments from my fleet, which terminated in the capture and destruction of four of the enemy's ships; and to signify their lordships' directions to me, to express their approbation of the great exertions of Rear Admiral Stopford, Sir Harry Neale, and the several other officers mentioned by me as having been most actively employed; and having particularly distinguished themselves upon this important service." And I am warranted in the assertion, that the service was considered as deserving the thanks of both houses of parliament; because, in the letter from their Lordships' secretary to Lord Cochrane, dated 29th May (which is already before the Court), it is expressly stated, that it was the intention of his Majesty's Government to move for such thanks.

Lord Cochrane, however, warned the noble Lord at the head of the Admiralty, that, if this measure were attempted, he should, if standing alone, oppose it, so far as regarded the Commander in Chief. Thus, without specifically objecting to the thanks being given for the service performed, directing his hostility personally at me, and making his attack as publicly, thought not so fairly, as if he had at once exhibited formal charges.

Lord Cochrane, as a member of parliament, may most assuredly support or oppose public measures, as he shall think proper. In the present proceedings however, he stands in the situation, only of an officer serving under my command, as appears by the following letter to me from the First Lord of the Admiralty.

Admiralty, May 29, 1809.

"My Lord,

"Having, in conversation, informed Captain Lord Cochrane, that it was the intention of his Majesty's government, to move the thanks of both Houses of Parliament to your Lordship, and to the officers, seamen, and marines, serving under your command in Basque Roads, Lord Cochrane declared to me, that in the event of such a measure being proposed in parliament, he should feel himself bound, by his public duty, to object to the thanks, *as far as they should apply to the Commander in Chief.* Under these circumstances it has been deemed expedient to suspend the motion for the vote of thanks, and to call upon Lord Cochrane, by the Board of Admiralty, to state the ground on which he has intimated to the First Lord of the Admiralty, his intention to oppose the vote of thanks, as far as respects your Lordship; that the Board of Admiralty may thereby be enabled to judge, how far the grounds, to be stated by Lord Cochrane, may be of a nature to suspend the motion in parliament, or to call for any further investigation by the Board, or in any other way.

"I have felt it due to your Lordship, to give you the earliset information of this state of things, and to acquaint you, that a letter will this day be written to Captain Lord Cochraine, in conformity to the above Resolution of the Board of Admiralty; a copy of which, together with the answer of Lord Cochrane, will be, without delay, communicated to your Lordship.

"I have, &c.

(Signed) "Mulgrave."

Admiral the Lord Gambier,
&c. &c. &c.

Whether Lord Cochrane supposed he might, with impunity, endeavour to lower me in the opinion of my country, and of my sovereign, signal marks of whose favour had at this instant been exclusively conferred upon himself; whether his Lordship thought he could exalt his own reputation at the expense of mine; and whether he expected that his threat would intimidate me to silence, I know not; but if these were his ideas, I assure myself the result will prove to him, that they

were founded in error; for I will never permit any man to proceed as Lord Cochrane has done, without availing myself of the means which the laws of my country afford, to shew the futility and injustice of such an attack.

By the letter of the Secretary of the Admiralty, to Lord Cochrane, his Lordship was called upon to state the grounds on which he had intimated his determination of objecting, in his place in the house of commons, to a vote of thanks to me individually, and his reply is already before you.

After making his undefined accusation against his admiral, he excuses himself from explanation, by a general reference to the log and signal books of the fleet, without knowing, if I may judge from the imperfect state of his own log, what that general reference might produce.

Therefore, because he does not accord with me in opinion, Lord Cochrane, whose extent of responsibility has perhaps never exceeded the charge of a single ship, and to whom, in judgment, I will not reduce my experience to a comparison, becomes my accuser, whilst from my situation, I am responsible for every act of my fleet, and for the fate of every ship composing it.

I am so confident (and hope it is already evident to the Court) that Lord Cochrane has no cause whatever for accusing me of any dereliction of duty, that it might almost be supposed something had occurred in my personal conduct towards his Lordship, which had afforded him grounds of dissatisfaction. The contrary, however, is the fact; more liberality could not have been shewn than Lord Cochrane received at my hands; and although a considerable degree of disappointment was manifested throughout the fleet, on his arrival to conduct the service to be performed by fire vessels, yet every officer in the fleet rendered him the most ready assistance, not only in valuable suggestions (the entire credit of which seems to have been assumed by his Lordship), but by every other means that zeal and courage could afford.

Lord Cochrane, on presenting himself to me after the action, was general in complaint of the officers who commanded the other ships, engaged at the same time with himself, on the attack of the enemy; but, having had equal means with his Lordship, of judging of the

conduct of those officers, I do aver that it was highly meritorious.

At the time Lord Cochrane made this general complaint, I had not the smallest suspicion that there existed in his mind those sentiments of *disapprobation of my conduct*, which by his proceedings since his return home, I am to suppose he then entertained. It would in such a case have been liberal, and, I think, also his duty, to have made a communication to me to that effect. I should then have been enabled to have guarded, in some measure, against his attack upon my character, on his arrival in England.

I scarcely need observe in this Court, that however highly courage is to be valued in an officer, it is always incomplete in its consequences, without the equal exercise of judgment and discretion, it being the duty of a Commander, not only to destroy his enemy, but to accomplish that destruction with the least possible loss on his part; and I submit to the Court, whether there ever was a service which (under all circumstances) more required the exercise of those qualities, than the one in question; the effect produced exceeded my most sanguine expectation, and I believe the expectations of the whole fleet.

The points under the consideration of the Court appear to be the following.

Whether the lapse of time between the discovery in the morning of the enemy's ships being on shore, and the attack, was not, under all circumstances, absolutely necessary for the advantageous accomplishment of the intended service; whether it was not my duty, as Commander in Chief, to be governed by a general view of the whole of those circumstances, rather than yield to the suggestion of one, and that a very junior officer; and whether an earlier attack would have been attended with greater advantages. In short, was there not accomplished, at the time the attack was made, all that could at any time have been effected!

It is in support of these propositions I undertake to shew, as indeed is already in evidence before you, that had I not delayed sending in the ships to the attack until the time I did, the loss of ships, and of the lives of valuable seamen, would, in the opinion of all the officers of the fleet, have amounted to a large proportion of the force so employed; and yet it seems that I am

now represented as deserving of censure for having prevented that wanton destruction; but I am satisfied that the Court will, by the result of their investigation, find that not a single additional ship of the enemy's would have been destroyed by a more early adoption of those measures, which it is imputed to me I delayed or neglected!

I shall now proceed, without any immediate reference to the evidence already before the Court, to the direct matter of the enquiry and charge, to which my letter to the Lords Commissioners of the Admiralty of the 10th May, partly applies. This letter was written, on my being informed, that my public dispatch, of the 14th April, had been considered as not sufficiently explanatory; but even that letter proves short of what has now become necessary to submit to the Court, put, as I am, upon my defence.

I must confess, that in relating the circumstances of what I felt an important service, I was not sensible that any part of my conduct would require explanation. I conceived that a brief statement of the facts which had occurred would have been satisfactory, and I will venture here to express my firm conviction, that during the whole period which is the subject of enquiry, and more particularly on the very day on which I am charged with a dereliction of duty; it will be found by this honourable Court, that in the previous arrangement I exerted the utmost faculties of my mind to prevent any circumstance escaping me which forethought could dictate, and that at the time of attack, I acted with all the zeal for the success of the service, an officer could evince, whose duty it was to consider the proper application and preservation of his own fleet, as well as the destruction of that of the enemy.

The squadron under my command, including the advanced frigates, having been driven from their station off Brest, by the continued prevalence of tempestuous westerly winds, it was on my return off that port on the 23d February, that I ascertained the escape of the French fleet.

I had no information of the time when the enemy escaped from their port, or of the course they had taken, consequently had no grounds upon which I could exercise any discretion. This reduced me to the necessity of following my orders, which, in such an event, distinctly directed me to detach the senior flag

officer, with such force as I might conclude was equal to the enemy, and to return myself to Cawsand Bay for further orders. I accordingly detached Vice Admiral Sir John Duckworth, with eight sail of the line and a frigate, in pursuit of the French fleet, on the course pointed out in their Lordships' orders before referred to; which left me with the Caledonia alone, in the mortifying situation of being obliged to return to port.

I refer back to this event, in order to shew, why the Caledonia, bearing my flag, became detached from the fleet; a circumstance which, at the time, exposed me to insinuations highly painful to my feelings.

In proceeding to Cawsand Bay, the Naiad joined me off Falmouth; when Captain Dundas informed me, that the enemy's fleet from Brest, consisting of eight sail of the line, and two frigates, had entered Basque Roads on the 24th of February; where they had been reinforced by the four sail of the line, and two frigates, previously lying in Aix Roads. This communication being made to the Lords Commissioners of the Admiralty, I received orders from their lordships on the 3d of March, to put to sea with the Caledonia, Tonnant, Illustrious, Resolution, and Bellona, together with any frigates and smaller vessels under my command, that might be ready for sea at Plymouth; to form a junction with Rear Admiral Stopford, commanding his Majesty's squadron off Rochefort; and in the event of not finding the enemy's ships there, to proceed in pursuit of them on a prescribed course, beyond the limits of my station, the information given by Captain Dundas affording every reason to conclude, from the enemy's ships having only hove to in Basque Roads, that they had immediately sailed from thence, on their original destination.

On my arrival off Rochefort on the 7th of March, I found that Rear Admiral Stopford, with the Cæsar, Defiance, Donegal, and four frigates, had, in the course of the 24th of February, been joined by Captain Beresford, with the Theseus, Triumph, Valiant, Revenge, and one frigate, and shortly after by the Hero; and that the French Fleet had moved from Basque into Aix Roads, and taken an anchorage there, with eleven sail of the line, and four frigates: for in the mere operation of shifting their birth into Aix Roads, in consequence of the intricacy of the navigation, one of their ships, the Jean Bart of 74 guns, was totally wrecked.

Judging that the occupation of Basque Roads by the fleet under my command, would be most effectual, either for blockading the enemy, or for carrying on offensive operations, should they prove practicable; I immediately ordered some of the masters of the fleet to proceed thither, and to take every advantage of weather, in sounding and surveying the anchorage; in order to ascertain the part most adviseable to be occupied by a fleet, of the magnitude of that under my orders.

On the 15th of March, I issued the following general order to the fleet:—

"GENERAL ORDER.

"When the fleet takes an anchorage in Basque Roads, the starboard division will anchor in a line E. by S. from the Caledonia, and the larboard division will anchor in a line W. by S. from her. The ships are to be moored. The anchors to be placed E. N. E. and W. S. W. from each other, with the small bower to the westward; and the ships are to be at the distance of two cables length from each other.

"The frigates and brigs are to be placed one mile distant in advance, either towards the isle of Aix, or the town of La Rochelle, according to the direction in which the wind blows; and some of them will be further advanced after the close of day, as an additional guard against any attempts the enemy may make with fire vessels against the fleet.

"Every ship is to be held in constant readiness for action, at all times, upon the shortest notice.

"Every preparation is to be made, and kept in constant readiness, to resist and frustrate the attempts of the enemy, by the means of fire ships or vessels; and the ships are always to be ready to slip their cables, if it should be necessary, leaving buoys upon them.

"Two boats from each ship are to be held constantly ready, with fire grapnels in them, on board the advanced frigates, to tow off fire vessels. The boats are to go on board the advanced frigates every night, soon after sun set, to remain the night under the orders of the Captain having the charge of the advanced guard; they are to return to their proper ships in the morning.

"Two brigs are to be advanced beyond the frigates, with three boats on board each, which are to row

guard in moderate weather, and when the wind blows from the eastward; and a vigilant look out is to be kept upon the movements of the enemy, from all the ships and vessels of the advanced guard. If any of the enemy's vessels approach the fleet, they are to be fired at; and if they are suspected to be fire vessels, blue lights are to be immediately burnt as a signal thereof. If the enemy's ships of the line are discovered to be in motion, rockets are instantly to be thrown up to apprize the fleet. In either case the frigates will get under sail, and act in such a manner, as may be most suitable to counteract the operations of the enemy, and assist the fleet in any way they may be able.

"Given on board the Caledonia, at anchor off the entrance to the Pertius D'Antioche, 15 March, 1809.

(Signed) "GAMBIER."

To the respective Captains, &c. &c.

On the 17th March, the fleet anchored in Basque Roads, and was moored in a line, as directed by the general order, with the frigates and gun brigs advanced towards the enemy.

The Caledonia was anchored, Chasseron Tower bearing W. $\frac{1}{4}$ N. citadel of the Isle D'Aix S. by E. $\frac{3}{4}$ E.; and the enemy's fleet, lying at the distance of about six miles S. E. was moored in two compact lines, and the most distant ship of each line within point blank range of the batteries on the Isle D'Aix, with their frigates advanced towards the entrance to the Aix Roads.

This compact position of the enemy was evidently taken, to avoid the shoals close around the anchorage.

The nearer and more distinct view I now obtained of the enemy's position, confirmed me in my opinion, of the impracticability of a successful attack upon their ships by the fleet.

I was also satisfied, that the only way of attacking the enemy, was by the means of fire ships; as suggested in my letter to the first Lord of the Admiralty, writen four days after my arrival off Rochefort, as follows:—

"*Caledonia, off the Pertius D'Antioche, 11th March*, 1809.

"MY DEAR LORD,

"The advanced work between the Isles of Aix and

Oleron,* which I mentioned in my last letter, I find was injured in its foundation, and is in no state of progress; that is therefore no obstacle to our bombarding the enemy's fleet, if you should be disposed to make an attempt to destroy it. A trial was made six years ago when a Spanish squadron lay at the same anchorage, but without effect. The report of it you will find in the Admiralty; it was made by Sir Charles Pole.

"The enemy's ships lie very much exposed to the operation of fire ships; it is a horrible mode of warfare, and the attempt very hazardous, if not desperate; but we should have plenty of volunteers for the service. If you mean to do any thing of the kind, it should be with secrecy and quickly, and the ships used should not be less than those built for the purpose, at least a dozen, and some smaller ones.

"Yours my dear Lord,

"Most faithfully,

(Signed) "GAMBIER."

The Lord Mulgrave, &c. &c.

This letter was received by his lordship on the 19th March, who, indeed, had anticipated my sentiments, as appears by the following letter from their Lordships secretary, already before the Court, but which I will here recapitulate in order to preserve the chain of my narrative:—

(MOST SECRET). "*Admiralty Office, 19th March*, 1809.

"MY LORD,

"I am commanded by my Lords Commissioners of the Admiralty, to acquaint your Lordship, that they have ordered twelve transports to be fitted as fire ships, and to proceed and join you off Rochefort; and that Mr. Congreve is also under orders to proceed to your Lordship, in a coppered transport, (the Cleveland) containing a large assortment of rockets, and supplied with a detachment of marine artillery, instructed in the use of them, and placed under Mr. Congreve's orders. That the bomb vessels named in the margin (Etna, Thunder, Vesuvius, Hound, and

* Boyart.

Fury) are likewise under orders, to fit for sea with all possible expedition, and to join you as they may be ready. That all these preparations are making, with a view to enable your Lordship to make an attack on the French fleet, at their anchorage off Isle D'Aix, if practicable; and I am further commanded to signify their Lordships' direction to you, to take into your consideration the possibility of making an attack upon the enemy, either conjointly with your line of battle ships, frigates, and small craft, fire ships, bombs, and rockets; or separately by any of the above named means.

" You are to man the fire ships with volunteers from the fleet, entrusting the said ships in charge of officers of the rank of commander, who may happen to be present, and shall volunteer their services on this occasion. But as it is not likely there will be officers sufficient of that rank to command all the fire ships, you are to make up the deficiency by such Lieutenants of the line of battle ships as shall volunteer their services, giving the preference to the first Lieutenants: and when the said fire ships are manned by volunteers from the fleet, you are to cause their original crews to be received on board the ships of your fleet. And in the event of the said fire ships being destroyed, you are to send home the said men in order to their being discharged, furnishing them with such certificates or protections as shall secure them from being impressed into his Majesty's service. You are also to hold out to the volunteers, and the officers to whom the command of the fire ships may be entrusted, every expectation of reward in the event of success.

" It is their Lordships' further direction, that you state to me for their information, whether any further augmentation of force of any description is, in your opinion, necessary, to enable you to perform this service with full effect; that it may be prepared and forwarded to you without a moment's delay; their Lordships having come to a determination, to leave no means untried to destroy the enemy's squadron.

" In order to give your Lordship every information on this important subject, my Lords have directed me to inclose to you a copy of a paper, drawn up by

Sir Richard Keats (in 1807) proposing a mode of attacking an enemy's squadron under Isle D'Aix.

" I have the honour to be,

" My Lord,

" Your Lordship's most obedient

" humble servant,

" W. W. POLE."

Admiral Lord Gambier, off Rochefort.

" P. S. The fire ships are expected to sail from the Downs to-morrow, and the rocket ship from the Nore about the same time.

" Six additional transports are ordered to be forwarded from Plymouth to your Lordship, and the Board of Ordnance are desired to send a ship, with combustible matter sufficient to fit the said trsnsports as fire ships, and also to put on board her an assortment of carcasses for twenty-four pounders, and of Valenciennes composition, to be used at your Lordship's discretion."

Before I received this letter, and not doubting that the means necessary for assailing the enemy by fire ships would be afforded me agreeably to my suggestion, I used every opportunity of making myself acquainted with the impediments of the navigation, by sending the master of the fleet and the master of the Caledonia to sound, and survey the channel.

On the 25th I issued the following general order to the fleet:—

GENERAL ORDER.

" If at any time, one, or more, of the enemy's ships should take the advantage of a favourable wind and tide, and attempt to pass the fleet, the Captains of the ship or ships nearest to which the enemy may pass, are immediately to cut, or slip, in pursuit of them, and use their utmost endeavours to bring the enemy to action; but no greater number than those of the enemy are to continue the pursuit; and if more of the King's ships should have slipt than those of the enemy, the sternmost are either to return, or anchor again immediately, and shew the distinguishing lights when in the presence of the enemy.

" Should more than four or five ships of the enemy attempt to pass through the fleet, the Admiral will

probably make the signal for the whole fleet to chace; when every ship is instantly to cut or slip their cables.

" Should any of the enemy's frigates make the same attempt, the advanced frigates are in like manner to pursue them.

" Caledonia, in Basque Roads, 25 March, 1809.

(Signed) " GAMBIER."

To the respective Captains, &c. &c.

On the 26th March, I received the Admiralty directions of the 19th above referred to, and to which I answered as follows:—

(SECRET). No. 70. " *Caledonia, in Basque Roads, 26th March,* 1809.

" SIR,

" I have this day received by the Encounter, your most secret letter of the 19th instant, accompanied by a paper, drawn by Sir Richard Keats, with his opinion of the mode of attack upon an enemy's squadron moored under the Isle D'Aix; and signifying the directions of the Lords Commissioners of the Admiralty to me, to take into my consideration, the possibility of making an attack upon the enemy's fleet, either conjointly with the line of battle ships under my command, and the frigates, small craft, &c. or separately therewith.

" You will be pleased to acquaint their Lordships, that I shall apply all the powers and energy of my mind, to carry into effect their directions as far as possible; when the means, with which their Lordships have ordered me to be furnished, arrive at this anchorage.

" I will not at present detain the Encounter in her return to Plymouth, but will detach another vessel to-morrow, and will furnish you with a statement of the enemy's force, position, and circumstances, for their Lordships information. Their ships certainly lie exposed to an attack upon them with fire vessels, with a hope of success.

" I have the honour to be, &c.

(Signed) " GAMBIER."

The Hon. W. W. Pole, &c. &c.

" (SECRET.)

No. 71. " *Caledonia, in Basque Roads, 26th March*, 1809.

" SIR,

" In obedience to their Lordships' directions to me, contained in your letter of the 19th instant, I beg leave to state to them that it will be adviseable I should be furnished with six gun brigs, in addition to those that I may be able to collect, of such as are under my command; at present there are only two at this anchorage. I shall, however, order the Insolent and Contest to join me from Quiberon Bay, and I should hope the Martial and Fervent will return here shortly from Plymouth.

" It is proper I should state for their Lordships information, the position in which the French fleet is at present anchored near to the Isle D'Aix, that their Lordships may be able to form a judgment, of the success that may be expected to attend an attack upon the enemy's fleet, in either of the modes directed by their Lordships, in your letter to me above mentioned.

" The enemy's ships are anchored in two lines, very near to each other, in a direction due S. from the fort on the Isle of Aix; and the ships in each line not farther apart than their own length; by which it appears, as I imagined, that the space for their anchorage is so confined by the shoalness of the water, as not to admit of ships to run in, and anchor clear of each other.

" The most distant ships of their two lines are within point blank shot of the works upon the Isle of Aix; such ships therefore as might attack the enemy, would be exposed to be raked by the hot shot, &c. from the Island, and should the ships be disabled in their masts, they must remain within the range of the enemy's fire, until destroyed; there not being a sufficient depth of water to allow them to move to the southward out of distance.

" The enemy have taken their position, apparently with the view, not only to be protected by the strong works upon the Isle of Aix, but also to have the entrance to the Charente open to them; that in case of being attacked by fire ships and other engines of the kind, they can run up the river beyond the reach of

them. The tide and wind that are favourable to convey this kind of annoyance to the enemy, serves equally to carry them up the river.

" With respect to the attempt that may be made to destroy the enemy's ships with shells, &c. I am not competent to give an opinion, until it is ascertained, whether the bombs can be placed within range of their mortars to the enemy's ships, without being exposed to the fire from the Isle of Aix.

" I beg leave to add that if their Lordships are of opinion that an attack upon the enemy's ships by those of the fleet under my command is practicable, I am ready to obey any orders they may be pleased to honour me with, however great the risque may be of the loss of men and ships.

" I have the honour to be, &c.

(Signed) " GAMBIER."

The Honourable W. W. Pole.

" P. S. I enclose a statement of the enemy's force.

" Statement of the enemy's force moored at Isle D'Aix anchorage, in two lines, very near to each other, in a direction due S. from the fort on the Isle D'Aix. The ships in each line, not further apart than their own length, and the most distant ships of the two lines, within point blank shot of the works on that Island.

One three decker - - -	Flag at the fore.
Ten two deckers, one a fifty gun ship late H. M. Ship, Calcutta.	One flag at the mizen, and one broad pendant.
Four frigates.	

" Caledonia, in Basque Roads, 26th March, 1809.

" G."

On the 27th March, I went myself in the Unicorn, with Sir Harry Neale, the Captain of the fleet, and Captain Bedford of the Caledonia, to reconnoitre the enemy's fleet, and the fortifications of the Isle D'Aix; which appeared, (notwithstanding Lord Cochrane seeks by his evidence to make a contrary impression) to be of considerable force.

Observing that the enemy were resuming their works on the Boyart shoal, with the view of affording to their fleet in Aix Roads additional protection, I sent in the

Amelia and Conflict on the 1st April, to disperse the people employed on these works, which service they effected.

On the 3d April, Lord Cochrane arrived with the Imperieuse frigate; and by his Lordship I received the following directions from the Admiralty:—

"*Admiralty Office, 25th March*, 1809.

"My Lord,

"My Lords Commissioners of the Admiralty having thought fit to select Captain Lord Cochrane, for the purpose of conducting, under your Lordship's directions, the fire-ships to be employed in the projected attack of the enemy's squadron off Isle D'Aix; I have their Lordships' commands to signify their direction to you, to employ Lord Cochrane on the above mentioned service accordingly, whenever the attack shall take place; and I am to acquaint you, that the 12 fire-ships, of which you have already had notice, are now in the Downs in readiness, and detained only by contrary wind; and that Mr. Congreve is also at that anchorage, with an assortment of rockets ready to proceed with the fire-ships. I am also to acquaint you that the composition for the six transports sent to your Lordship by Admiral Young, and 1000 carcasses for 18 pounders, will sail in the course of three or four days from Woolwich to join you off Rochefort.

"I have, &c.

"W. W. Pole."

To Admiral Lord Gambier.

That the service might proceed with the utmost celerity, I ordered eight of the largest transports, then with the fleet, to be selected and prepared as fire-ships, in lieu of the six expected from Plymouth; that they might be ready to act with the twelve from Woolwich, immediately upon their arrival. These with the Mediator were accordingly fitted, by means of rosin and tar fortunately found on board some Chasse Marees recently captured, and other combustible materials furnished by the fleet.

This service was performed under the immediate superintendance of the Captains of the line of battle ships, who evinced the most unremitting activity upon the occasion.

Upon the 10th of April, at 4. 30. P.M. the Beagle arrived with the twelve fire-ships from England, when I issued orders to the commanders of sloops, and first lieutenants of line-of-battle ships, to take the command of them, and of the other fire ships which I had prepared.

It was found altogether impracticable to proceed to the attack on the night of the 10th, though much pressed by Lord Cochrane; and it may be considered a most fortunate circumstance that the attempt was deferred, for it appears by a general order, found on board one of the enemy's ships*, and now delivered into Court, that the French, to protect their fleet from attack, had equipped 73 launches, and other boats, in five divisions, to guard it from surprise during the night, and to tow off our fire-ships on their approach; and the tranquillity of the night of the 10th, would have afforded the enemy full opportunity of availing themselves of this protection; but of this they were deprived, by the very blowing weather on the subsequent night, when the fire-ships were sent in.

I have here to notice, that some days previous to the attack, I had, to deceive the enemy, adopted the precaution of ordering out of the Roads, the vessels of every description, that were not to be engaged in the intended operations.

To assist and support the fire-ships, the following disposition was made of the whole force in frigates and small vessels:

The Unicorn, Aigle, and Pallas, I directed to take a station near the Boyart Shoal, for the purpose of receiving the crews of the fire-ships on their return from the enterprize, to support the boats of the fleet which were to accompany the fire-ships; and likewise to give assistance to the Imperieuse, which ship was somewhat further advanced. The Whiting schooner, and the King George and Nimrod cutters, were fitted for throwing rockets, and were also directed to take a station near that shoal. The Indefatigable, the Foxhound sloop, and Etna, (being the only bomb-vessel that had then arrived) were ordered to place themselves as near the Fort on the Isle of Aix, as possible; the two former to protect the bomb whilst she threw shells into the Fort.

The Emerald, Dotterel, and Beagle sloops, and Insolent, Conflict, and Growler gun-brigs, were stationed to make a diversion at the east end of the Isle of Aix. The

* See Appendix, No. IV.

Redpole and Lyra I directed to be anchored by the Master of the Fleet, one near the Isle of Aix, and the other near the Boyart, with lights hoisted, and properly screened from the enemy's view, to guide the fire-ships in their course to the attack.

Three explosion vessels, which had been proposed and prepared by Lord Cochrane, were, under his lordship's immediate direction, to precede the fire-ships in the attack. Their explosion was to point out the proper time for the officers commanding the fire-ships, to set fire to their respective vessels, and to intimidate and prevent the enemy from towing off the fire-ships. The boats of the fleet, under the superintendance of Rear-Admiral Stopford, were ordered to assemble alongside the Cæsar, to proceed to assist the fire-ships, and I issued the following General Order, and gave the officers commanding fire-ships full instructions for their proceedings:—

(MEMR. GENERAL.)

"*Caledonia, in Basque Roads, 11th April*, 1809.

"The fire-ships are to proceed to the attack the ensuing night. The exploding vessels will close with the Imperieuse. The fire-vessels will move from their anchors at half past seven o'clock. In running in they are to leave the two lights of equal height (which will be shewn on board a vessel placed for that purpose) on the starboard hand; and to leave the two lights perpendicular (which will also be shewn on board another vessel placed for that purpose) on the larboard hand.

"The frigates, &c. which are to protect and receive the officers and crews of the fire-ships, will shew four lights perpendicular; and the Imperieuse will probably anchor near the Boyart, and shew five lights perpendicularly.

"If the wind should shift before the fire-ships proceed to the attack, or from other circumstances it should be postponed, the Caledonia, or the Imperieuse, will fire a gun and shew three lights in a perpendicular position."

(Signed) "GAMBIER."

To the respective Captains, &c. &c. &c.

With these preconcerted arrangements the fleet was

at this time unmoored, in readiness to render any service that might be practicable; but being unavoidably anchored in a strong tide way, with the wind blowing hard from the N.W.; upon the weather-tide making, it was again moored, to prevent the ships falling on board each other.

At about half past eight P.M. the explosion-vessels and fire-ships proceeded to the attack; at half past nine, two of the explosion-vessels blew up; and at ten most of the fire-ships were observed to be on fire—the enemy's forts and ships firing on them; many of the fire-ships were seen to drive through their fleet, and beyond the Isle of Aix; the night was extremely dark—it blew a strong gale, with a high sea; and the service thereby became of such increased hazard as scarcely to admit of a hope of the officers and men ever returning.

It is right I should here observe, that although from these, and other untoward circumstances, several of the fire-ships failed in their object, I could not discover (after the fullest investigation) that blame was imputable to any of the officers who commanded them.

The explosion-vessels, conducted by Lord Cochrane in person, also failed in their object, as will be seen by reference to the small chart I now deliver into Court, which points out where two of them blew up. The third broke adrift, and did not explode.

The situation in which, and the time when, those vessels blew up, proved prejudicial to the enterprize in several respects. Their premature explosion, contrary to the expressed intention of Lord Cochrane, that they should blow up in the midst of the enemy's boats, to deter them from towing off our fire-ships in their approach, served as a warning to the enemy, whose ships were observed instantly to shew lights; and several of the officers who commanded the fire-ships, not doubting that the explosion had taken place near to the enemy's fleet, steered their ships, and set them on fire accordingly, by which means several were in flames at a greater distance from the enemy than was intended, and so as to endanger our advanced frigates. In fact, had not Captain Wooldridge, and some of the other officers, wholly disregarding the explosion, taken their fire-ships in a proper direction for the enemy, it is more than probable that none of them would have produced any effect whatever on the enemy's fleet.

But although not one of the enemy's ships was actually destroyed by means of fire-ships, yet the terror excited by their approach induced the enemy to cut their cables, and exposed them, by their running aground, to the attack which ensued.

I now come to the proceedings of the 12th of April, which commence with the signal, that the enemy could be destroyed; and which destruction it is imputed to me, I delayed or neglected.

At 5. 48. A.M. the Imperieuse, then about three miles from the enemy, and about the same distance from the Caledonia, made the signal to me by telegraph, that "seven of the enemy's ships were on shore, and that half the fleet could destroy them."

The actual situation of the French fleet, at that time, was this: Seven of their ships were on shore on the Palles, two had escaped towards the Charente, and two lay either at their original anchorage, or a very little removed from it, with their broadsides bearing upon any thing that might approach, to attack the ships on shore.

I ordered the fleet to be unmoored immediately; the wind was at N.W. and the tide was then nearly at the last last quarter ebb, and much too far spent, to admit of a force being sent in, so as to effect any thing, with the possibility of returning, in case of disaster, before the making of the flood, which would effectually have locked up our ships within the enemy's confined anchorage, during the whole of that tide. Here they would have been exposed, not only to the point blank shot of the batteries, but also to the broadsides of the above-mentioned two line of battle ships, then lying in Aix Road, and which, even without assistance from the batteries, must have entirely crippled every one of our ships in their approach, through so narrow a channel; besides which, some of the grounded ships were sufficiently upright, and so situated as to enable them to bring their guns to bear upon the entrance.

I would here submit to the Court, whether the idea which appears to have been entertained by Lord Cochrane, that a force could have been sent in so as to have arrived before low water in the morning, was not in itself preposterous and impracticable.

Upon the fullest consideration that no possible attempt could be made until the tide had flowed for some time,

unless a previous change of wind should take place; all I had to do, was to make every *preparation* for the attack on the enemy's grounded ships; accordingly I made the signal for the fleet to weigh, and the Rear Admiral and Captains being assembled on board the Caledonia, I gave orders to the Commander of the Etna, the only bomb present, to proceed as soon as the tide would permit that vessel to approach near enough to bombard the enemy's ships. I at the same time ordered the Insolent, Conflict, and Growler gun-brigs, to accompany her, and directed the Captains of the Valiant, Bellona, and Revenge, with the frigates, to take an advanced anchorage, as near as possible to the Boyart Shoal, to be in readiness to proceed to the attack, as soon as the water had sufficiently flowed to enable them to do so. At between nine and ten A.M. which was much before the flood was sufficiently made to commence effective operations, the fleet ran in, and came to an anchor within about three miles distant from the enemy's fortress of Aix; the three ships before mentioned, with the frigates, anchored about a mile nearer to the Boyart, but the bomb and brigs did not come to.

As the flood-tide made, three of the seven ships, which had grounded on the Palles-Shoal, and were the farthest from us, being lightened, succeeded in warping off, and made for the Charente.

The two line-of-battle ships still at their anchorage, in the situation before described, took, at the same time, advantage of the flood, and proceeded likewise towards that river.

Most, if not all these five ships, now ran aground at the mouth of the Charente, and were never assailable.

These movements of the enemy's ships were not, as I submit to the Court, to be prevented by any means that I could adopt, with the smallest chance of success, and without his Majesty's ships being put to the most unwarrantable peril, and when, as Rear Admiral Stopford has, in his evidence on the part of the prosecution, most emphatically described, "Ours would have been all the loss, and the enemy's all the advantage."

The wind blew directly in, so that in the event of our ships being crippled, while the flood tide was running, which appeared inevitable, it would have been impossible for them to have worked out, or to have retreated to an anchorage, out of the reach of the enemy's shot and shells,

the consequence of which could scarcely have been less than their utter destruction.

These serious impediments induced me to delay the attack until the latter part of the flood, in order to give any ships, which might be disabled on their approach, a chance of returning by means of the receding tide.

Had the wind been favourable for sailing both in and out, or even the latter only, there could have been no doubt that the sooner the enemy's ships were attacked the better.

And I think the Court will allow that I am completely borne out in what I have stated, by the sentiments which it will be proved were expressed to me by Lord Cochrane, when he came on board the Caledonia after the action; that had I acted upon his signal, and sent in at that time, half the fleet, he calculated upon the loss of three or four of his Majesty's line-of-battle ships. And I have moreover to observe, that if, in defiance of the obstruction of the other ships of the enemy, I had sent in a force, before the three ships had warped off the Palles Shoal, it is a positive fact, that it could not have advanced to the attack of those three ships, on account of the shoal water.

It appears by the log-book of the Imperieuse, that at 11. 30. she weighed, and run in in company with the Etna bomb and a gun brig. The fact is, that the Etna passed the Imperieuse whilst at anchor, about one, and that she began the attack some time before the Imperieuse arrived up; half an hour afterwards the Imperieuse and Beagle followed the Etna and gun-brigs in to the attack, and between ten minutes before, and seven minutes after two, as will be seen by a reference to the log-books upon the table, I ordered the Indefatigable, Unicorn, Aigle, and Emerald frigates, with the Valiant and Revenge (and the Pallas a few minutes later), to weigh, Captain Bligh, the senior officer, having some hours before received my directions for his proceeding against the enemy.

The Imperieuse opened her fire at about 20 minutes after two, the Aigle at three, and the other ships as soon after as the flowing tide permitted.

In consequence of strong north-westerly winds, the flood tide continued running until past three in the afternoon, which Lord Cochrane has not noticed in his evidence.

In my letter of the 10th May to the Admiralty, I could not state these circumstances so minutely as I am now enabled to do, by a reference since made to the log books.

At 4. 10. P. M. the enemy's ship Calcutta, and the Ville de Varsovie, and Aquilon, about an hour after, were taken possession of by the boats of the advanced squadron, and set on fire, as soon as the prisoners were removed; a short time after, La Tonnere was burnt by the enemy. This ship is admitted, by the evidence of Lord Cochrane, to have been out of the reach of our fire, and it is a notorious fact, that the three-decker and the other two ships that got afloat, had been aground at some distance beyond the Tonnere.

In this manner the Court will find that the four ships capable of being attacked at the time the signal was made (if the Tonnere may be so considered, of which I doubt) were completely destroyed, the other three of the seven first on shore, never having, as I have already stated, been in a situation to be assailed.

And I venture most positively to assert, that the destruction of these ships would not have been effected, if I had not delayed the attack until the time I did.

At the close of the afternoon I judged it adviseable to attempt to follow up our success by an attack upon the five ships that had escaped to the mouth of the Charente, which I thought it might be possible to effect during the night, I therefore sent Rear Admiral Stopford, in the Cæsar, with the Theseus and the fire-ships* and boats of the fleet, with Mr. Congreve's rockets, and gave the Rear Admiral discretional orders, to proceed as far as he should judge proper, and for his applying that force as he should think fit, and according as circumstances should render it expedient.

Scarcely had the Cæsar reached Aix Road, before she grounded, and lay in a very perilous situation (as has been deposed by the Rear Admiral) exposed also to the point-blank shot from the batteries.

The Rear Admiral perceiving that nothing could be effected by the line of battle ships, all of which had grounded (as had also some of the frigates), and that they lay in imminent danger; and satisfied that if any thing further could be effected towards the destruction of these ships, it could only be by smaller vessels, he therefore, very judiciously, before day-light on the 13th, availed himself of a providential shift of wind,

* Three vessels had been prepared as such in the course of the day.

which enabled him, when the line of battle ships floated, to extricate them from that danger, and to return to Basque Roads.

Captain Bligh, of the Valiant, also on his return, reported to me, that it was found impracticable to destroy the three-decked ship, and others which were lying at the entrance of the Charente, as the former, (which was the outer one) was protected by three lines of boats placed in advance from her.

In addition to the incontestible proofs already adduced, of the impracticability of effecting any farther destruction of the enemy's fleet, I will advert to the high professional character of Rear Admiral Stopford, and Captains Beresford, Bligh, and Kerr, who cannot for an instant be supposed likely to omit any circumstance that could effect the object for which they were sent by me into Aix Roads, and I am morally certain, that they did not withdraw their ships, until it was wholly impracticable to annoy the enemy farther, or, until it appeared to those officers that the destruction of their own ships would be the certain consequence of their longer continuance in Aix Roads.

Lord Cochrane remained in the Road of Aix, during the 13th and 14th, accompanied by the Pallas frigate, the sloops, and gun brigs, and Etna bomb, but nothing was attempted by the frigates.

During the 13th, the Etna was employed in throwing shells, the Whiting schooner in firing rockets, and the other small vessels firing upon the enemy's ships on shore, when the tide permitted them to approach.

On the 14th, having, by signal, directed the Imperieuse to join me, I ordered Captain Wolfe, of the Aigle, to take the command of the small vessels advanced; these, with the Etna, continued firing on the enemy's ships at the entrance of the Charente, as opportunity offered, during the remainder of the day, but without effect.

On the 15th, I dispatched Sir Harry Neale to their Lordships, in the Imperieuse, with my public letter of the 14th April, giving an account of the service which had been performed.

From the 15th to the 24th, the attack on the enemy's ships on shore, at the mouth of the Charente, was continued by the bombs, (the Thunder having arrived on the 19th) assisted by the small vessels, as wind and

weather permitted; but the enemy had, by throwing overboard their guns and stores, got so high up, that even the gun brigs, and other vessels of light draught, frequently grounded, in their endeavor to approach, and never could get sufficiently near, to produce any effect.

The orders of the Lords Commissioners of the Admiralty to me of the 14th April, to detach two squadrons of four ships of the line each, to cruise for the purpose of intercepting the French ships which had escaped from L'Orient in February, having, with the other orders which I received from their Lordships, between the 17th March and 29th April, been read upon opening the Court, I take occasion to observe, that I had anticipated the orders of their Lordships in this respect, and the success in the operations of the 12th, without the loss of any of the king's ships, having enabled me to do so, I had previously appointed two squadrons for that service, one of which had actually sailed before I received the orders of their Lordships thereupon.

From the 24th to the 29th April, nothing material occurred; and having received the Admiralty letter of the 22d April, signifying, " that their Lordships considering the state of the enemy's force, in consequence of the brilliant success of the fleet under my command, so much reduced as to render my further presence unnecessary, directed me to repair to Spithead in the Caledonia." I accordingly completed the arrangements of the fleet, and proceeded in the Caledonia to England, on the 29th April.

Previous to my leaving Basque Roads, one of the enemy's frigates was set on fire by themselves at the entrance of the Charente, another was observed to be wrecked further up that river. The number of ships that escaped without injury did not, from the best information, exceed one or two line of battle ships, and two frigates; what may have been the fate of the remainder I leave to be considered by the members of this honourable Court, who are well qualified to judge of the condition of ships which had been so long and so repeatedly aground.

By the foregoing narrative, as well as by the log and signal-books of the Caledonia (to which, as also to every correct log of the fleet, I am as desirous to refer as

Lord Cochrane may be), it will, I conceive, be seen that I fully meet the charge which has been preferred against me, and if the impression arising out of this enquiry should prove less favourable to Lord Cochrane than that which may have been produced by my letter to the Lords Commissioners of the Admiralty, of the 14th April, his Lordship must be sensible, that, as the instigator of this Court-Martial, he will himself have been the cause of this change of sentiment. I have been willing to grant to his Lordship the fullest credit for his personal bravery, and for his judicious manner of approaching the enemy in the Imperieuse, to which points the commendation expressed in my letter of the 14th April, related; for, in fact, the success of the first part of the enterprise, as I have before observed, arose from the terror excited by the appearance of the fire ships, as they failed in the principal effect they were intended to produce, and the blast of the explosion vessels under his Lordship's immediate direction, did not take place by any means so near to the enemy's ships as his Lordship had projected; the general result, however, of the attack, was so successful, that, under that impression, I did not hesitate to express, in my public letter, the degree of approbation which is therein marked, passing over circumstances not altogether satisfactory to me, and not at that time necessary to be brought into public notice.

The Court is now in possession of all the facts and circumstances on which I rest my justification, and it remains to be considered how far they are affected by the evidence produced on the part of the prosecution.

I have, first, to refer to the evidence of the second in command, and to that of the Captains of two of the frigates engaged in the attack, viz. the Rear Admiral Stopford, and Captains Rodd and Wolfe.

These officers, far from supporting any part of the charge made against me, have distinctly denied there having been any neglect, delay, or deficiency, in any part of my conduct in Basque Roads; and, I am persuaded, that had the prosecutor called all the other witnesses summoned upon the trial, a corresponding testimony would have been given by each of them.

I have next to refer to the evidence of the log and signal-books of the fleet, on which the charge purports to be founded, and, I must here beg to call your

attention to the very unusual circumstance of there being already on your table, two log-books of the same ship, (namely the Imperieuse) and materially differing from each other; one of them produced by the Master of the Imperieuse, as the authentic public document of that ship, to the accuracy of which he has deposed; and the other presented by Lord Cochrane, and admitted by his Lordship to be a compilation by himself in London, from materials which are not produced to the Court.

In addition to these circumstances, I have to lay upon your table a third paper, purporting to be also a log-book of the Imperieuse, but differing from the two already before you: this paper was delivered to me by Lord Cochrane, in obedience to my order of 12th May last, to furnish me "with a copy of the books of logs and signals of his Majesty's ship Imperieuse, under his command, from 11th to 15th April inclusive;" and to this log the Court will find affixed his Lordship's signature.

The Court itself having so attentively inspected the master's log, I need not point out the alterations evidently made therein; and it cannot fail to observe the variations in the other two logs.

I must, however, remark, that among the deviations in these papers from the ship's original log, the signal immediately in question, which is recorded in the latter, to have been for "half the fleet," stands in both these compilations as having been made for "part of the fleet" only*; and of the two logs received from Lord Cochrane, that only produced in Court by himself, records the circumstance of his having hailed the Indefatigable, and proposed to her a joint attack upon the enemy's ship the Ocean; and I cannot help here reminding the Court of the application made by the Master of the Imperieuse for access to the Indefatigable's log.

I beg leave to submit, whether documents, formed some time after the events they record took place, and so contrary to the practice of the Navy, can be deemed authentic, or ought to be referred to as, or in support of, evidence before this Court.

I have no doubt the signal made by Lord Cochrane on the morning of the 12th April, which forms a part

* Lord Cochrane, in his evidence, admits that the signal actually made was for *half* the fleet.

of the charge against me, will, combined with other subsequent signals, appear to the Court unprecedented and improper; of this his lordship now seems aware, from the manner in which he has expressed himself in his evidence; and that there may be no doubt of the accuracy of the signal log-book of the Caledonia, I must again call before you the signal officer, to shew that the signal of recal on the 13th April, said to have been observed by the Imperieuse, was never made by the Caledonia; and also, that the signal of the 14th, recorded in the Caledonia's log as made by the Imperieuse, that "if permitted to remain can destroy the enemy," is denied by Lord Cochrane, ever to have been made.

I have yet to call the attention of the Court to the plan drawn by Lord Cochrane, of the position of the enemy's ships as they lay aground on the morning of the 12th April, and to that position marked upon the chart verified by Mr. Stokes; the former laid down from uncertain data, the latter from angles measured, and other observations made upon the spot; the difference between the two is too apparent to escape the notice of the Court, and the respective merits of these charts will not, I think, admit of a comparison.

The accuracy attributed by Lord Cochrane to the French charts will, I doubt not, seem very extraordinary, after it shall be shewn in evidence that his Lordship has expressed a very opposite opinion.

It now only remains for me to examine in what manner Lord Cochrane has attempted, by his unsupported opinion, to maintain the charge. This is to be collected from the long narrative evidence given by his lordship. It cannot, I am sure, be deemed necessary for me to follow him throught he whole of this evidence. There are, however, some parts of it that require particular animadversion.

In the course of his evidence, Lord Cochrane, in allusion to the danger which would attend his going without encouragement to the attack of the ships at the mouth of the Charente, says, speaking of himself, "a heavy, very heavy responsibility would lie upon my shoulders in case of disasters, which in military operations are sometimes unavoidable; if I had my cable shot away, for instance, I might have been sunk." Yet, whilst on the one hand his lordship seems to have been so sensible of the weight of responsibility imposed upon himself, by the command of a frigate and a few small vessels, he ap-

pears, on the other, to have been unmindful of the far heavier degree of responsibility attached to my command during so complicated an undertaking; in alluding to the dangers of which, I must take this opportunity to mention five furnaces for heating shot which Lord Cochrane reported to me to have himself discovered, when he went in to reconnoitre previous to the attack.

Lord Cochrane states, that 74 gun ships may go into an inner anchorage between the Boyart Shoal and the Palles, at any time of tide. He asserts also, that the tide rises only from ten to twelve feet. By the French chart, which he produced to confirm his deposition, it appears that there is a bank to pass over before ships can get into that anchorage, with from 18 to 20 feet at low water. But by the charts of the Master of the Fleet, and Master of the Caledonia, who sounded upon the bank, it appears that there is only from 14 to 19 feet, and the bank full of knowlls. Under these circumstances, if Lord Cochrane's opinion be correct relative to the rise and fall of the tide, no man in his senses would venture a 74 over it, even in the smoothest water, at less than ¾ flood, and therefore as to the refuge that this inner anchorage would afford a crippled ship, how little would the probability be that the opportunity of both tide and wind should offer for a crippled ship, at the moment it was most wanted, to pass over the bank, and get out of the reach of the batteries; but if I had even previously known as much of this inner anchorage as I now do, I would not, as the wind was at the time, have done otherwise than I did; and if Lord Cochrane really knew what he has now professed to have known when he was in Aix Road, it was a duty imperiously incumbent upon him to have communicated that information on the afternoon of the 12th, to the captains of the line-of-battle ships which he saw in so perilous a situation, aground, within point blank range of the batteries.

Lord Cochrane has expressed an opinion, that two or three sail of the line sent in on the morning of the 12th, might, by running up on the verge of the Boyart Shoal, have passed to leeward of the two French ships remaining at anchor. This I declare to have been absolutely impracticable, as well from the raking fire of the two ships afloat, of the upright ones on shore, in our approach, and the fire of the batteries, as from the shoal water close under their lee. The testimony of Captain Rodd, the only witness examined on this point, on the

part of the prosecution, corroborates my opinion, which, I have no doubt, will be further supported by the evidence of other competent witnesses, whom I propose calling.

With respect to the force of the Aix batteries, I apprehend what appeared to Lord Cochrane, and to the master of his ship, as ruins of the Fort, were, in fact, materials for improving or encreasing the works; indeed, can it be natural to suppose, that the enemy, who are so active in forming batteries wherever they can be useful, and whose engineers are considered to be equal to any, would, of all moments, choose that for dismantling or blowing up works, when they expected those works would be most required, for it is very certain the enemy was as fully apprized of our intentions of attacking their fleet as myself; and it will, perhaps, be considered less likely that the enemy should weaken their defences on the Isle D'Aix, raised evidently for the protection of their fleet, when at the same time they were endeavouring to form others on the Boyart shoal, as a further protection for it.

Relative to the service that had been performed, and what might possibly still be further attempted towards the destruction of the enemy's ships, Lord Cochrane states a conversation to have passed between his Lordship and myself, on his return from Aix Roads, in which he represents me to have said, "that if he threw blame, it would appear like arrogantly claiming all the merit to himself."

I, however, trust the Court will not conceive that the expression of casting blame has any allusion to my conduct, for, as I have before said, Lord Cochrane never expressed one syllable, from which I could form the most faint idea, that he felt disappointed at any thing resting with me; his Lordship's allusion had reference only to the several officers who acted with him in Aix Roads, upon whom generally he cast blame, without giving the smallest intimation, either by word or manner, that, in his expressions of dissatisfaction, he included his Commander in Chief.

By the manner in which Lord Cochrane has expressed himself, it might perhaps be concluded, that I had been desirous he should bear my dispatches to England, and after the caution he represents me to have given him, it might, if I allowed this statement

to pass uncontradicted, be supposed by some, that I proposed this as an inducement to secure Lord Cochrane's silence, whereas, when his Lordship recalls the circumstances to his mind, it will, I am sure, lead him to acknowledge, that so far from pressing this service upon him, I, in the first instance, gave him to understand, that Sir Harry Neale, the Captain of the fleet, was to bear my dispatches, and at which, Lord Cochrane, I positively declare, expressed evident marks of dissatisfaction; and it certainly will appear to every reflecting mind, that my sending his Lordship to England, with orders to go to the Admiralty, betrayed no desire of concealment, nor apprehension of any representation Lord Cochrane might make of my conduct.

Upon a general review of the evidence of Lord Cochrane, it will appear that his Lordship has founded his statement on the narrative log compiled since his return to England, on the French chart, and on the position in which is placed, in his own chart, the enemy's several ships aground, and the two ships which remained at the anchorage on the morning of the 12th.

When it is considered how essentially this log differs from the ship's log, and both of them from the document Lord Cochrane has furnished me with, I conceive not much credit can be given to either.

With regard to the reliance to be placed on the French chart, I have already observed, that Lord Cochrane declared, before the attack, that it was incorrect.

With respect to the position of the enemy's ships in the morning of the 12th April, after their dispersion, it is so widely different from that in which they are placed in the chart which has been delivered in by the Master of the Caledonia, and will be verified by the Master of the fleet, that it is hardly to be supposed they relate to the same transaction, and it is very fair here to remark the fact acknowledged by Lord Cochrane, in his evidence, that he erred no less than five points of the compass in the report he made to me before the attack, of the direction in which the French fleet was moored in two lines, from the fort of Isle D'Aix.

Lord Cochrane has thought fit to represent that the enemy's three grounded ships, which escaped from off the shoal of the Palles, were lying so near together, as to give two of them, which he states to be heeling inwards, the appearance of their masts and yards locking:

this description of them is certainly well calculated to make a strong impression of their defenceless state: but whatever may have been their appearance to his Lordship, such is not the fact; for, in reality, they were lying perfectly separate and clear of each other, as is shewn by the afore-mentioned chart, produced by the Master of the Caledonia, as will also be proved by evidence. But whatever their situation might have been with respect to proximity, I must here repeat that they could never have been approached by our ships within the reach of our shot, as Lord Cochrane has allowed in regard of the Tonnere, which was nearer to our attacking force than either of the three ships in question.

It now only remains for me to request the attention of the Court to some conclusions, which I think may be drawn from the whole of the statements I have submitted to the consideration of you, Sir, and the rest of the members of this honourable Court; and by which, with the additional evidence I have to adduce, it will, I flatter myself, distinctly appear,

1st. That during the whole of this service, the most unwearied attention was applied by me to its main object, the destruction of the enemy's fleet.

2dly. That in no part of the service was more zeal and exertion shewn, than during the whole of the 12th April; when I had necessarily in view two objects, the destruction of the enemy's fleet, and also the preservation of that under my command: for the extreme difficulties in approaching an enemy closely surrounded by shoals, and strongly defended by batteries, rendered caution in my proceedings peculiarly necessary.

3dly. That three out of the seven of the enemy's ships aground on the Palles, were from their first being on shore, totally out of the reach of the guns of any ships of the fleet that might have been sent in; and that at no time whatever, either sooner or later, could they have been attacked.

4thly. That the other four of the eleven ships of which the enemy's fleet consisted, were never in a situation to be assailed after the fire-ships had failed in their main object.

These are the points on which I rest my justification, trusting that it will appear to the Court upon their review of my whole case, that I did take the most effectual measures for destroying the enemy's fleet: that

neither neglect nor unnecessary delay did take place in the execution of this service, and on the contrary that it was owing to the time chosen by me for sending a force in, to make the attack, that the service was accomplished with so very inconsiderable a loss.

Had I pursued any of the measures deemed practicable and proper in the judgment of Lord Cochrane, I am firmly persuaded the success attending this achievement would have proved more dearly bought than any yet recorded in our naval annals: and far from accomplishing the hopes of my country, or the expectations of the Admiralty, must have disappointed both. If such too were the foundation of his Lordship's prospects, it is just they should vanish before the superior considerations attendant on a service involving the naval character and most important interests of the nation.

I conclude by observing, that the service actually performed has been of great importance, as well in its immediate effects, as in its ultimate consequences; for the Brest fleet is so reduced as to be no longer effective: it was upon this fleet the enemy relied for the succour and protection of their West India colonies, and the destruction of their ships was effected in their own harbour, in sight of thousands of the French: and I congratulate myself and my country, that this important service has been effected, under Providence, with the loss only of 10 men killed, 35 wounded, and 1 missing, and not even one of the smallest of our vessels employed has been disabled from proceeding on any service that might have become necessary. The extent of difficulties, and prospect of danger in this enterprize, were extreme, and the gallantry and determined spirit of those engaged most conspicuous. These merits, and those difficulties, ought not to be depreciated, on account of the inconsiderable loss sustained on the occasion; I by no means seek to arrogate to myself any merit by these observations, but I make them, as a tribute of praise due to the zealous services of the brave officers and men under my command, and with a view of pointing out, how justly they are entitled to the gratitude of their country.

GAMBIER.

Portsmouth,
31*st July*, 1809.

The Log delivered by Lord Cochrane to Lord Gambier being produced,

JUDGE ADVOCATE—I suppose it will not be necessary to read this log.

PRESIDENT—I presume not.

JUDGE ADVOCATE—The Court may compare it.

(The French General Order referred to in the defence was given in.)

JOHN DYER, Esq. sworn.

Examined by Lord Gambier.

The Letter from Lord Mulgrave to Lord Gambier being shewn to the witness,

Q. Do you believe that to be the hand writing of Lord Mulgrave?

A. Yes, it is.

Q. And that his Lordship's indorsement on the letter from Lord Gambier of the time of the receipt thereof?

A. Yes.

JUDGE ADVOCATE—These letters have already been read in the defence; they are the originals of a letter from Lord Mulgrave and another from Lord Gambier.

Mr. JOHN SPURLING called again.

Examined by Lord Gambier.

Q. Is this signature "Cochrane," to the copy of the log, his lordship's hand writing? *

A. It is, to the best of my knowledge.

Q. You have seen him write?

A. I have.

JAMES WILKINSON, Esq. Secretary to Lord Gambier, sworn.

Examined by Lord Gambier.

Q. In what way did this paper come into my possession? *(the French Order being shewn to the witness.)*

A. How it came into his lordship's possession I do not know. I first saw it on board the Caledonia, on the 13th or 14th of April, a day or two after the attack. It was found in one of the French captured ships.†

* See the log here produced in the Appendix, No. 2.

† See this Order in the Appendix, No. 4.

Mr. EDWARD FAIRFAX, Master of the Fleet, sworn.

Examined by Lord Gambier.

Q. Were you employed sounding and surveying in Basque Road and towards Aix Road previous to the 11th of April?

A. Yes, and reconnoitering the position of the enemy.

Q. State the general knowledge you obtained while so employed by my orders, and whether it agrees with the charts in the Neptune Francoise?

A. I was mostly employed on the Long Sand, (the Boyart is the southern part of it) and found that it extended full three quarters of a mile to the eastward and northward of where laid down. I will state to the Court where it varies. If you lay a ruler from Fouras Castle to Isle D'Aix, you will see that it carries you much clear of the sand, as expressed by the chart. The mark for the spit is Chasseron light house, W. N. W. and Fouras Castle, between the citadel and the barracks upon Isle D'Aix. *(The witness pointed it out upon the chart.)* Here are twenty-four feet in this part, where there are forty-five feet laid down in the chart. This is the only chart we had as a guide. The variation is pourtrayed in the chart produced by Mr. Stokes. I gave Mr. Stokes the marks, and I have all the different angles in my pocket, with the different soundings.

Q. Is the space for the anchorage of large ships in Aix Roads much confined, and the water round it shoal?

A. The space is much confined. I have not sounded myself there; but I will state to the Court how I ascertained that the space was small, and likewise the position. In the first place I went to the N.N.E. of the Isle D'Aix, till I brought the enemy's line touching the citadel. I then took the direction that they bore from that point, and afterwards the direction of their line, which was nearly S. by W. by compass.—After ascertaining that I went towards the Boyart, in such a situation as to bring the northern part of Isle D'Aix to bear E. and the citadel E.S.E. by compass. Having the distance from the citadel, it then becomes a question in trigonometry to ascertain the distance from the ships and the space which they occupied, which was three quarters of a mile, *the length of the line*. This report was given to Sir Harry Neale and to Lord Gambier. The enemy's fleet, the last time they were reconnoitred, was about south and by west by the compass from the citadel.

Q. This reconnoitring took place before they left their anchorage?

A. Yes. Perhaps it will be sufficient to say they were south and by west by the compass. This chart shews the

state of the enemy at daylight. *(Mr. Fairfax produced a chart of the position of the French fleet in Aix Roads on the 11th and 12th of April; likewise some of the fire-ships before they were on fire, the explosion vessel conducted by Lord Cochrane and Lieut. Bissel.)* This chart is correct, except that the head of the Calcutta is placed by the engraver too far to the southward. It should have been about N. W. by the compass: and the head of this ship, which is the three decker, the Ocean, is to the eastward, but not sufficiently far to the northward by compass.

Q. That is a chart printed from your original manuscript?

A. Yes, it is. I believe they never shifted their births in Aix Roads, by what I saw and heard, without having a hawser fast: they never set a sail but the stay-sails and mizen-top-sail. Nor was it ever known, I believe, that a ship of the line worked out from thence without first having got her head to the westward.

Q. Is the navigation of Aix Road difficult for large ships, as far as you know?

A. Very much so.

Q. What is the rise and fall of the tide in Aix Roads, as far as you know?

A. I should suppose from eighteen to twenty feet.

PRESIDENT—I should think you should express from what datum you speak?

A. The log-book of the Caledonia was constantly kept and marked, and it will be seen there: what I speak particularly from, is the night I was in D'Aix Roads in the Lyra.

LORD GAMBIER—Do you know of Lord Cochrane making a report to me of the position of the enemy's fleet at their anchorage?

A. Certainly.

Q. Previous to the 11th of April, in consequence of his having reconnoitred?

A. Certainly.

Q. Shew upon the chart the position in which Lord Cochrane placed them?

A. Nearly E.N.E. and W.S.W. by compass, to the best of my recollection. If they had been attacked in that way, it is impossible that above two of the ships could have been driven on shore by the fire vessels.

PRESIDENT—I apprehend that merely what might have been the case, if they had been so and so situated does not apply: your Lordship would not wish that taken down.

Lord Gambier—No; that is not what I asked. How many points do you differ from Lord Cochrane?

A. I think it was five points.

Q. My reason for asking that is, that Lord Cochrane reported his reconnoitre to me after he had been in the Imperieuse some few days before the attack. What I mean to infer is, that if Lord Cochrane could be so much mistaken in that part of his evidence as to the position of the French fleet, he might be as much so in respect to the works on the Isle of Aix. —Had you any conversation with Lord Cochrane upon the subject of the charts, previous to the 12th of April, as to how far they might be depended upon for their soundings, &c.?

A. Not a word; nothing but about the positions of the ships, not the soundings. Lord Gambier, when I was introduced to Lord Cochrane, pointed out the difference of the reconnoitring, and said that the attack must be very different, if I was right in my positions, from the lines being so very much at variance. Lord Cochrane acquiesced, and Sir Harry Neale advised Lord Cochrane to go to the situation that I had, or to that purport, to convince himself that he had been wrong, which I believe he did.

President—Had you any conversation afterwards, from which you perceived that he had found out his mistake?

A. No, only from the report of his Lordship's evidence, which I have seen in the newspapers.

Lord Gambier—Did you know, previous to the 12th of April, of any anchorage above the Boyart Shoal and near the Palles Shoal for line of battle ships out of range of the enemy's shells?

A. I knew of no anchorage.

President—Have you acquired a knowledge of any such since?

A. I have not.

Lord Gambier—At what distance was the British fleet from that of the enemy when it took its first anchorage in Basque Roads?

A. The Caledonia from the citadel of Isle D'Aix was distant 11,900 yards, nearly six nautical miles. I reported this to Lord Gambier and Sir Harry Neale. I ascertained this by the admeasurement of angles I took for the purpose.

Q. Where were you on the forenoon of the 12th of April?

A. The first part of it on board the Lyra, and the latter part of it on board the Caledonia.

Q. Where was the Lyra at that time?

A. We were working out from Isle D'Aix towards the fleet.

Q. State how the wind was on that day, and the time of high water in Aix Road?

A. The fore part the wind was N.N.W. or N. and by W. At noon I believe about north, but I cannot exactly charge my memory: at three o'clock in the afternoon it was about N.N.W. The time of high water, by calculation, would be about five minutes past two, but strong northerly winds vary that very much.

ADMIRAL STANHOPE—You mean to say that it blew strong at the time?

A. Yes, for two or three days. It was high water on that day about half-past three o'clock, or twenty minutes past three o'clock. The Calcutta did not float: she was touching till near three o'clock; I cannot charge my memory to a few minutes.

LORD GAMBIER—State the situation of the enemy's fleet on the morning of the 12th of April?

A. I have described them on the chart produced by me. There is one occurrence which, I believe, no one did know but myself, and which I reported; which is, that two ships, I believe, the Rear Admiral and the Commodore, had been on shore at a little before 3 A.M. on the 12th. Before day-light they loosed their sails, and caused me to get the private signals on board the Lyra ready for sinking. Shortly afterwards they got their heads to the eastward, and seemed to recede from me; seemed to increase their distance: their sails were taken in immediately. The sails they had set were mizen-top-sail, main-top-mast stay-sail, spanker, and fore-top-mast stay-sail. I account for the alteration of these two ships by what I have stated.

Q. Can you state their situation at noon?

A. At eleven A.M. (for I went down below after that, being in a good deal of pain from a contusion I had received, and did not come up till near two o'clock) they were then nearly the same as the chart expresses. At day-light one of them, the Rear Admiral, the sternmost ship, had his top-sail-yards hoisted up; the other had one of his top-masts up, either the main or foretop-mast and yard hoisted. There was one of the top-masts down; I had no glass, and was working out in the brig.

Q. Were any of the enemy's ships that were aground lying so close together, as to have the yards of two of them locked in together?

A. By perspective, those near the Tonnere seemed to be very close. If you draw a line they appear to be in one; but by the observation by lights, they were separate, as I have laid

them down; every half mile as we got out they appeared to be otherwise.

PRESIDENT—The question is, whether these two ships were lying so close together, that their masts and yards might be locked in, or whether they were distinct?

A. They were distinct at night. I think their yards were not locked.

LORD GAMBIER—Had any ships of the line been sent into Aix Road, towards the entrance of the Charente, at any time in the morning of the 12th of April, to attack the enemy's ships that were aground; at what time was it possible for them to return, under the circumstances of wind and tide, as they were the whole day?

A. They could not even have shifted their situation till four o'clock P.M. As for returning I should think it impossible.

Q. Would they have been within range of shells and shot also from the enemy's batteries while those ships remained there?

A. From every chart I have seen they certainly would.

Q. With the wind, as it blew the whole of the day of the 12th of April, could those ships have sailed out large. (It may appear extraordinary that I should put this question, but I have particular reasons for it.) Could they have sailed out large, or must they have worked with the tide? In fact, it is answered before, by his saying they could not shift their position.

A. They must have taken advantage of the ebb tide to have worked out if they had got out at all.

Q. As the wind did continue the whole of that day, if those ships had been crippled or had lost a mast, must they have remained under the fire of the enemy's batteries until the wind should shift?

A. I do not know how they could have helped themselves.

Q. What then would have been the probable fate of those ships?

A. Destruction.

Q. Could any of the enemy's ships, before they ran up the Charente, on the 12th of April, have annoyed and raked any of the king's ships that might have been sent in to attack them?

A. They certainly lay in a favourable place for it.

Q. After these ships ran to the entrance of the Charente, could they have been approached by the British ships?

A. I should think by nothing but a frigate.

Q. Could any line-of-battle ships have run to leeward of

the two ships of the enemy that lay at their anchorage to attack them on the morning of the 12th without taking the ground?

A. Most certainly not. I have laid them down accurately on the chart, and it will be there seen they could not.

Lord Gambier—I beg leave to say I asked that question, because Lord Cochrane said he would first have attacked those two ships, and then run to the leeward. Mr. Fairfax says they could not have run to leeward.

Mr. Fairfax—I beg leave to observe, that no ship or ships could have hove-to upon the larboard tack with the wind as it was but what they must have fallen off, so much as to bring themselves into a position to be raked by those two ships of the enemy. There was not room to go under their sterns.

Q. Had even two or three ships of the line been sent in to attack those two ships, were any of the enemy's ships aground then lying in a position to annoy our ships either in that anchorage or in their approach to it?

A. Some of them certainly were.

Admiral Young—Did you see the Imperieuse make any signal on the morning of the 12th?

A. I did.

Q. At what time was the first signal made, and what was that signal?

A. I think it was about five, but I do not know the exact time.

Q. Was it day-light at five o'clock?

A. I cannot say to the time; I was working out with the brig, and picked up some men under the batteries.

Q. If a part of the fleet had got under weigh immediately after the making of that signal, at what time of the tide would they have arrived in Aix Roads in a situation to attack the enemy?

A. Upon the last quarter ebb. They could not have attacked the enemy without endeavouring to go into the anchorage the enemy had left. They could not have got within reach of them without pursuing that deep water line which was protected by the batteries of the enemy and by the enemy's ships on shore.

Q. By following that deep water line, how near must they of necessity have passed by or anchored under the batteries on the Isle D'Aix?

A. Three-quarters of a mile; they would have been close to the shoal at the mile; they must necessarily have passed within that distance.

Q. Had you an opportunity of observing the strength of the current of the tide in the harbour of Aix?

A. No.

Q. Was it such, as far as you did observe it, as would admit of a fast-sailing ship working over it, and beating out against the flood, as the wind was on the 12th of April?

A. By report, I should imagine that no ship could.

Q. By what report?

A. By what I have heard from pilots of the narrowness of the channel.

Q. If, then, a part of the fleet had gone into the Road of Aix when the Imperieuse made the first signal in the morning, must it have remained within three-quarters of a mile of those batteries till the ebb made in the afternoon?

A. They might have shifted by the flood; but then they would have been in a worse situation.

Q. Were you in the Road of Aix after the British ships were placed for the purpose of attacking the enemy?

A. No.

Q. You have said that by perspective, by which I suppose you mean by the eye, three of the enemy's ships appeared to be near each other—Were you afterwards in any situation which enabled you to determine that they were not near each other?

A. No; it was prior that I distinguished them separate.

Q. Can you at all determine how far they were asunder?

A. I should think not a ship's length from each other—those three.

Admiral Duckworth—Were you on board the Caledonia when the fleet were at single anchor on the afternoon of the 11th?

A. I was away in the Lyra from the afternoon of the 11th till the morning of the 12th, about eight o'clock.

Q. Had the fleet been unmoored at the moment Lord Cochrane made the signal at five o'clock on the morning of the 12th, could it have tended to promote the destruction of those two ships that were left at anchor near the Isle of Aix?

A. It could not.

Q. You, of your own knowledge, do not know at what hour of the forenoon or of the morning of the 12th the fleet was unmoored?

A. The fleet was unmoored when I came on board.

Q. Were you on board the Caledonia when they weighed to proceed nearer to the Isle of Aix?

A. Yes; I think between nine and ten o'clock the Caledonia got under weigh.—We came to an anchor again in about twenty minutes or half an hour.

Q. After anchoring again, what was the distance from the Caledonia to the citadel at the Isle of Aix?

A. The cross bearings gave it about three miles and a half; from that to three miles.

PRESIDENT—Mr. Bicknell, do you propose any questions to Mr. Fairfax?

MR. BICKNELL—None.

Mr. THOMAS STOKES, Master of the Caledonia, called in again.

Examined by Lord Gambier.

Q. Where were you on the forenoon of the 12th of April last.

A. On board the Caledonia.

Q. State how the wind was on that day at the time of high water in Aix Roads?

A. From day-light in the morning till ten o'clock about N. N. W. the wind fresh;—from ten to twelve, from N. N. W. to N. N. E.;—from twelve to three in the afternoon, from N. N. E. to N. N. W. rather varying;—from three to five, the wind varying from N. N. W. to N. W. It was high water in Aix Roads about three o'clock.

Q. State the situation of the enemy's fleet on the morning of the 12th of April?

A. At day-light, I observed the whole of the enemy's ships, excepting two of the line, on shore; four of them lay in group, or lay together on the western part of the Palles Shoal, the others on the eastern side of that shoal; some off the Foras and within Madame. The frigates had entered the Charente, except the Indianne, which was on shore near Ennette Isle. The three-decker was on the north-west edge of the Palles Shoal, with her broadside flanking the passage, the north-west part nearest the deep water.

PRESIDENT—I observe, in the chart I had from you, the situation of the Ocean, particularly, is not marked on the 12th; she is marked on the 13th as advanced up the Charente?

A. The only ship marked in the chart on the 12th are those that are destroyed: the reason I marked her on the 13th is, that a particular attack was made on her by the bombs. I observed her from the mizen-tops of the Caledonia, and I also had an observation from an officer; so that I have no doubt her position is put down within a cable's length.

LORD GAMBIER—Had any ships of the line been sent into Aix Roads and towards the entrance of the Charente at any time

on the morning of the 12th of April to attack the enemy's ships that were aground, at what time would it have been possible for them to return?

A. It would not have been possible for them to return that day.

Q. Would they have been within range of shells and shot from the enemy's batteries while they remained there?

A. At half range of shell and point blank shot.

Q. As the wind continued as it did the whole of that day, and if those ships had been crippled or had lost a mast, must they not have remained under the fire of the enemy's batteries till the wind should shift?

A. They must have remained under the fire of the enemy's batteries until the tide flowed sufficiently to have floated them to the southward of the Palles Shoal, where there was a place in five fathoms at low water; but this retreat, in my opinion, the ships would not have been able to have gained, as they had not room to wear clear of the Palles Shoal; and had they been disabled in their masts or yards, they would not have been able to have tacked; nor even if they were not crippled, they had not room to stand on to have got sufficient way to bring the ships about.

Q. Had you any certain knowledge of that anchorage you now mention before the 12th of April?

A. None whatever.

Q. Is there not a bank between the Boyart Shoal and the Palles Shoal?

A. Yes.

Q. What depth of water is there generally upon that bank at low water?

A. From twelve to sixteen feet in the deepest part; but that part is narrow.

Q. If there was only sixteen feet, line-of-battle ships could not pass over it at all times?

A. No, not until near two-thirds flood. You must reckon on going over that part at twelve feet.

Q. To get to the above anchorage, is it necessary to pass over the bank just mentioned?

A. It is.

ADMIRAL YOUNG—Is there a channel of sixteen feet all across?

A. There is a channel of sixteen feet all across, but that is narrow: there are, about the middle of it, patches of twelve feet.

PRESIDENT—There is no going into the channel of sixteen

feet, without, in some instances, passing over that of twelve feet?

A. You may go over that channel of sixteen feet; but it is so narrow, that I should calculate on going over that part which is only twelve feet.

Q. It is so intricate you must count on passing over some part which is only twelve feet?

A. I should calculate on going over part of the twelve feet, because it is so narrow it is difficult to hit the passage of sixteen feet.

Lord Gambier—Could any of the enemy's ships, on the 12th of April, before they ran up the Charente, have annoyed and raked any of the king's ships that might have been sent in to attack them?

A. The Fourdroyant and Cassard both lay afloat: the Cassard about one-third of a mile distant from Isle of Aix, and close on the edge of the bank which extends from the Isle of Aix to the north-west point of the Palles Shoal; the Fourdroyant lay also near the edge of that bank, and I suppose about three cables distant from the Cassard. The three-decker lay with her broadside flanking the passage. They all three would have fired with complete effect on any ships that might approach.

Q. After the enemy's ships had run to the entrance of the Charente, on that day, could they have been approached by the British ships?

A. No.

Q. Is the navigation of Aix Roads difficult for large ships, and much limited in space?

A. It is very difficult for large ships; the deep water very much limited.

Q. Then the space for the anchorage of large ships must be very much confined, and the water round it shoal?

A. Yes.

Q. Were you employed in sounding and surveying within the Isle of Aix?

A. I was; from the 17th to the 24th of April.

Q. Did the general knowledge you obtained while so employed by my orders agree with the chart of that part in the Neptune Francoise?

A. In some part it agreed with the Neptune Francoise, but in other parts I found a wide difference: the Neptune Francoise giving more water than I found in many parts.

President—Did you sound between the Boyart Shoal and the Palles Shoal?

A. I passed between them at three or four different times in the Nimrod cutter: I took soundings at those times.

Q. Is the account which you give of sixteen and twelve feet water, at low water, between these shoals, derived from the information of your own soundings which you have just mentioned?

A. Not entirely from my own soundings, but from the soundings taken by the Master of the Dotterel, whom I sent for that purpose, and who reported to me in writing to have found those soundings.

Q. You ordered him to make soundings?

A. I did. I also sent the master of the Foxhound on that service.

Q. Had you any opportunity of ascertaining what the rise of the tide is in Aix Road, or the vicinity of it, in spring tides?

A. The lead was hove and the depth of water carefully ascertained every half hour on board the Caledonia, from the time she anchored off Chasseron till she anchored in Basque Roads, and from that time until, I believe, the day she quitted the station, whereby we ascertained beyond all manner of doubt the actual rise of water in Basque Roads. It is nineteen feet in spring tides and eight feet dead neap.

Q. If the rise of the tide was nineteen feet in what is termed Basque Roads, could it be less, or would it not be more in the more confined situation towards the Roads of Aix?

A. The rise of tides is found in Aix Roads to be twenty-one feet at high spring tides, which is more than we ever found the rise in Basque Roads.

Lord Gambier—Could the three French ships that were aground on the Palles and afterwards warped off and run up the Charente, ever have been attacked by line-of-battle ships?

A. They could not; they never could have come near enough to have fired upon them with effect, for the shot to reach.

Q. Could any more of the enemy's ships than the four that were destroyed have been destroyed, had any of the king's ships been sent to attack them at day-light on the 12th of April?

A. If we had attacked the enemy's ships on the morning of the 12th, from the position of the Fourdroyant, Cassard, and the three-decked ship, I think we should have sacrificed our own ships without making any impression on the enemy, or destroying any of their ships. The only time that they could have been attacked, with any prospect of success, was at the time the attack was made; the tide had then ebbed,

and the ships were fast on the ground with their sterns to the westward, and they could not bring any guns to bear on the ships that attacked them. To that circumstance, in my opinion, we owed our whole success; for had the French ships grounded with their broadsides flanking the passage, they would have been enabled to have defended themselves; and they could not have been attacked with the least prospect of success.

ADMIRAL YOUNG—As you were employed some time in the Road of Aix, you had an opportunity of observing the strength of the current of the tide—had you not?

A. I had.

Q. Was it so strong as to prevent fast-sailing ships from working over it, and beating out against the flood?

A. The flood tide, in the springs, ran at least three knots an hour; therefore it was impossible for any ship to work out against that tide.

Q. Then any ships going in at the end of the ebb must necessarily remain during the whole of the flood?

A. They must.

Q. You have said, I think, that if any of the ships of the line had gone into Aix Roads on the morning of the 12th of April, they could not possibly have got out again that day?

A. They could not.

Q. Is that an opinion you have formed since you left Basque Roads, or was it your opinion on the 12th of April?

A. It was my opinion on the morning of the 12th; and I have never had any reason to alter it.

Q. Were you consulted by any person on the practicability of going into and coming out of the Road of Aix on the 12th of April?

A. I was not particularly consulted; but Sir Harry Neale, on the morning of the 12th, seeing the enemy's fleet on shore, asked me what I thought (or words to that effect) could be done as to taking the line-of-battle ships in to attack the enemy? I told him perhaps we might destroy some of their ships, but that we should sacrifice our own; there could be no idea whatever of the ships being able to return.

Q. Are you quite clear you gave that opinion to Sir H. Neale on the morning of the 12th of April?

A. Yes.

Q. I think you have said that you had no knowledge whatever of the anchorage within the Isle of Aix, where ships of the line might ride in five fathom water till after the 12th of April?

A. Yes; I had no knowledge of that anchorage till after the 12th of April, nor had I any knowledge of the anchorage of the Isle of Aix.

Q. If you had known of that anchorage before the 12th of April, would the tide have admitted ships of the line to have gone to it on the morning of that day?

A. The tide would not have admitted ships of the line to have gone to that anchorage until twelve or one o'clock on that day.

ADMIRAL DUCKWORTH—Were you on board the Caledonia on the afternoon of the 11th, when the fleet were at single anchor in Basque Roads?

A. Yes; I was.

Q. Do you know the cause of the fleet's being moored that afternoon?

A. I mentioned to Captain Bedford, of the Caledonia, at about seven in the evening, the necessity of mooring the fleet, as they might swing on board of each other during the weather tide: he mentioned it to the Commander in Chief, and the fleet was moored. The fleet could not act in the night, and to unmoor was only the business of about half an hour.

Q. Had three or four line-of-battle ships been advanced towards the Isle of Aix, and lain during the night at single anchor, could they, by weighing when Lord Cochrane made the signal about five in the morning, at that time of tide have gone into the Road of Aix to have attacked the enemy without the greatest danger?

A. Had four sail of the line run into Aix Roads when Lord Cochrane made the signal, they would there have met a force equal to themselves; they would have made the attack under every disadvantage. The whole of the fire of Isle D'Aix, as well as the fire of the Fourdroyant, Cassard, and Ocean (the three-decker) would have been directed on them. They would have had no place to retreat to, and their only safety would have remained in the destruction of the French ships and silencing the batteries of Isle D'Aix; which I am sure it would have been impossible for them to have accomplished.

PRESIDENT—Do you wish to put any question, Mr. Bicknell?

MR. BICKNELL—No.

PRESIDENT—Does your Lordship wish to put any further question?

LORD GAMBIER—Do you know any thing about the Calcutta striking her colours to our ships?

A. She had not struck when I was on board the Imperieuse: the Aigle, Unicorn, and Emerald had anchored and fired upon

her, and one of her shot struck a boat astern of the Imperieuse after they had anchored and fired upon her. The Indefatigable had not anchored when I left the Imperieuse.

Lord Gambier—I have felt it necessary to put this question, because, in my public dispatch, I stated that the Calcutta struck to the Imperieuse, which I inserted on the authority of Lord Cochrane, who so informed me when he came on board the Caledonia. Lord Cochrane having made that statement, I did justice to his merits and services in inserting it; but a doubt having been suggested on the subject, I wish to have that point cleared up, in justice to the other officers of the fleet.

President—Were the ships and vessels sent in to attack the enemy as soon as it could be done with propriety, considering the state of the wind and tide?

A. They were, to the best of my opinion.

Q. From the first attack made upon the enemy's ships, to the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. Every thing was done, that was possible to be done, for the destruction of the enemy's ships.

Captain JOHN BLIGH, of His Majesty's Ship the Valiant, sworn.

Examined by Lord Gambier.

Q. Do you recollect the situation of the enemy's fleet on the morning of the 12th of April at day-light?

A. I do; I think they were as here represented.—*(In the chart made by Mr. Stokes.)*

Q. Do you remember the telegraph signal being made from the Imperieuse on the morning of that day?

A. Yes, I do.

Q. What was that signal?

A. That a part of the fleet could destroy the enemy's ships: a part, or half, I do not recollect which: half I believe.

Q. About what distance was the Imperieuse from the enemy, and from the Caledonia, when she made that signal?

A. The Caledonia was about six miles from the Isle D'Aix, and the Imperieuse about half way—about three miles.

Admiral Stanhope—Will you permit me to ask whether you think, upon the whole, upon recollection, the signal was a part of the fleet, or half the fleet?

A. I believe it was half; but I will not swear positively.

Lord Gambier—Had I sent in line-of-battle ships to Aix Roads early in the morning of the 12th of April, or soon after, were any ships of the enemy's fleet in a situation to enable them to rake or annoy our ships as they advanced?

A. Two of them were lying with their broadsides towards the entrance, and would have considerably annoyed any ships sent against them, certainly.

Q. Were there any of the enemy's ships which were aground capable of acting against our ships?

A. Early in the morning they lay with their broadsides towards the entrance, and I think they were capable of annoying the British ships.

Q. What number of guns appeared to command the anchorage of Aix Roads from the batteries of the island?

A. When at anchor in the Road of Aix I counted fifty guns: there may have been more, but I am certain there were not less.

Q. Did the enemy throw shells from the island?

A. They did.

Q. Can you speak at all as to the number of mortars they had?

A. No, I cannot.

Q. If any of our line-of-battle ships, advancing under the circumstances just stated, had become crippled, could they have returned before night, or what would have been the consequence?

A. I do not think, under all the circumstances, that if the line-of-battle ships had been sent in, they ever would have got out again. I think it would have been sending them to inevitable destruction.

Q. When I sent you into Aix Road, on the afternoon of the 12th of April, what were the directions I gave you; were they discretional or otherwise?

A. To use my utmost endeavours to destroy the enemy's ships. I considered the order to be in some measure discretional, as the sole responsibility rested on the Captain, the Pilot having refused to take the ship in.

Q. Do you recollect at what time I gave you those orders?

A. The first order I received from the Commander in Chief was at eight o'clock in the morning, to anchor near the Boyart Shoal within range of shell of the Isle D'Aix. The second order I received to proceed in, was a little after two P. M.

Q. Relate to the Court your proceedings generally in Aix Roads, until you returned to Basque Roads?

A. At half-past two I weighed in company with the Re-

venge, and went in to the attack of the enemy's ships. Our frigates were lying in close line, about north and by west to south and by east, rather in a curved line. I anchored to the southward of them close to the Indefatigable; and a little after three we commenced our fire on the Calcutta, and shortly after I observed her crew abandon her, leaving her colours flying. We then directed our fire at the Aquilon and Ville de Varsovie and Tonnere, as we could get our broadsides to bear upon them. The Ville de Varsovie's crew partly left her, and I think she was taken possession of by the Unicorn's boat. The Aquilon was the only ship which struck after that, and the Tonnere, about five o'clock, was quitted by her crew, and set on fire by them. As the tide fell, the Revenge grounded; but, by the exertions of Captain Kerr, she was soon got off, and went between the Boyart and the Palles. The frigates all followed her, except the Imperieuse, who grounded about six o'clock that evening. In moving the Valiant, she grounded on a knowl, and remained until eleven o'clock that night, when the tide rose and she got off; at low water there was seventeen feet alongside her. Four fire-vessels were all prepared by the Commander in Chief, and were sent in afterwards: two to have gone against the Fourdroyant, under the direction of Captain Seymour, and two against the Ocean, a three-decked ship. It was eleven o'clock, or half-past eleven, before they were completely ready, when the wind being baffling, and at times blowing directly out, I applied to Admiral Stopford for some gun-brigs to cover the retreat of our boats, the enemy's boats being moored in two lines across the stern of the Ocean with boats in advance. As the wind continued to blow directly out, until four o'clock in the morning, I judged the attempt to be impracticable, and therefore ordered the fire-vessels to move where the Imperieuse was laid, to follow the directions of Lord Cochrane. At half-past three, the prisoners being moved from the Aquilon and the Ville de Varsovie, and the water at that time up to their orlop decks, I ordered them to be set on fire; and at day-light I weighed in obedience to a signal from Admiral Stopford, and proceeded to Basque Roads.

Q. Was not the Valiant, and were not some of the other ships that were aground, in a perilous situation?

A. Yes; I think the Valiant was in a very perilous situation: nothing but the wind shifting and blowing directly out could have saved her from being wrecked.

Q. State the loss of the enemy's ships, as well those destroyed as those rendered unserviceable, as far as you know, in consequence of the attack?

A. There were four of the enemy's ships destroyed; the Aquilon, Ville de Varsovie, Tonnere ships of the line, and

the Calcutta: the Indienne frigate was burnt two days after. I think the others must have received considerable damage from being on shore, all but two.

Q. What is your opinion of the position taken by Captain Kerr of the Revenge; was it judicious?

A. I think it impossible a ship could be better placed than the Revenge; and indeed the general conduct of the Revenge on that day reflects the highest credit on the zeal and bravery of her Captain.

Q. Did the Revenge go within the Imperieuse and the other frigates, and relieve them from the fire of the batteries, and the guns of the enemy's ships?

A. She anchored the northernmost and easternmost ship about three cables length within the Imperieuse, and appeared to me to draw the fire of the batteries of Isle D'Aix from the frigates to her. The fire from the enemy's ships was so trifling throughout, from their helpless situation, that I never thought it was an object to be protected from it.

President—You have stated that the Revenge was very judiciously placed, and you have described the conduct of that ship as having been highly meritorious on the occasion; were not the other ships and vessels engaged with the enemy placed as advantageously as they could have been, according to the peculiar circumstances that existed, and did it not appear to you that the Captains and Commanders of them conducted themselves with equal zeal in the public service?

Lord Gambier—Sir, before Captain Bligh answers that question, I beg to state (which I am sure will be perfectly satisfactory to you) that the very next question I was about to put to Captain Bligh was that question.

President—I beg of the Court to permit me to have it expunged, that it may appear to be put by yourself. I had rather the question was proposed in your own language. I thought it a momentary omission, and I was desirous that the Court should not adjourn even for to-day without that question being asked. I beg it may be expunged.

Lord Gambier—If the Court will permit it to stand under my name if it is wished.

President—Perhaps you would wish to change the words.

Lord Gambier—No, not in the least.

A. The utmost zeal was manifested by every ship engaged; and I think it impossible they could be better placed for the destruction of the enemy's ships than they were.

Adjourned to to-morrow.

SIXTH DAY,

TUESDAY, AUGUST 1, 1809.

Captain JOHN BLIGH called in again.

Examined by Lord Gambier.

Q. When was it that the two line-of-battle ships of the enemy, which continued afloat on the morning of the 12th of April, moved towards the Charente; and when did the three grounded ships get off the Palles. I mean the three that went up the Charente?

A. About half-past twelve o'clock the two ships that were afloat moved up the Charente, and very shortly after the three ships that had been aground also moved.

Q. It has been stated that——

PRESIDENT—Your lordship is aware that you cannot allude to the evidence of any other person. If it is any thing stated in the evidence of Captain Bligh, the question is correct.

LORD GAMBIER—I will not put the question: it is not material.—You mentioned yesterday the strength of the enemy's batteries on the Isle of Aix; did you observe that any of the fortifications had been blown up and destroyed?

A. I did not observe that any of the fortifications had been blown up or destroyed. I think, if they had, I was so close, I must have seen it.

Q. Did you hear Lord Cochrane express to Captain Beresford, when in Aix Road, the probability of three or four of our line-of-battle ships being lost in attacking the enemy; and what passed on that subject?

A. When Captain Beresford asked Lord Cochrane his reason for making the telegraphic signal he made in the morning, that half the fleet could destroy the enemy, he said he calculated on our losing three or four of the ships, if the Commander in Chief had sent the squadron in.

Q. If the two line-of-battle ships of the enemy, which had remained at their anchorage in the morning, had moved towards the Charente at half-past eleven o'clock, could the frigates alone, assisted by the smaller vessels, have succeeded in their attempt to destroy the whole of the seven ships of the enemy that were on shore on the Palles?

A. No. I am confident that they would not have made any impression on the ships; but, on the contrary, I think it would have been attended with the loss of some of our own ships.

ADMIRAL YOUNG—Do you mean that they would not have made any impression upon any of the ships, or on the whole of them.

A. I do not think they would have made any impression upon any of the ships, situated as they were.

ADMIRAL YOUNG—That question is on the supposition that two ships of the line did go up?

A. That two ships of the line were in a situation to attack those that were on shore.

LORD GAMBIER—It was after those two ships had run up?

JUDGE ADVOCATE—Your supposition is that they had moved towards the Charente?

A. Yes: my answer is on the ground that the two ships had moved towards the Charente, but were still in a situation to have assisted the enemy.

Q. Were those two ships, in your mind, after they had moved up, so far removed, that they could not have given any assistance or have opposed our frigates?

A. The impression on my mind——

ADMIRAL YOUNG—I think, as far as possible, Captain Bligh should speak to what he felt and thought at the time.

A. The impression on my mind at the time was, that they had moved so far up as not to be able to assist their own ships, or to oppose our frigates.

LORD GAMBIER—Had the three enemy's ships that were aground upon the Palles, and afterwards floated, moved up from that situation before or after those two ships?

A. To the best of my recollection they floated and moved up after those two ships; very shortly after, twenty minutes, or half an hour.

Q. Did it appear to you, that on the morning of the 12th of April, or at any time when the enemy's ships were on shore, and the signal had been made that they could be destroyed, there was, on my part, any neglect or unnecessary delay in taking effectual measures for destroying them?

A. I have already stated, that if our ships had gone in on the morning of the 12th, it would, in my opinion, have been sending them to inevitable destruction. I do not think the ships could have been sent in sooner than they were, and there did not appear to me to be the smallest neglect or unnecessary delay on the part of the Commander in Chief.

PRESIDENT—From the first attack upon the ships of the

enemy to the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. I think that every thing was done that could be done, and even more than I at first expected.

Q. You have stated that you observed no part of the fortifications on the Isle D'Aix that had the appearance of being blown up and destroyed; did you take notice of any heaps of stones or rubbish which gave an appearance that any part of the batteries were in a disordered state?

A. I looked very attentively with a very good glass, at about a mile distance from the fort, the fortifications of which appeared to me to be perfect. If there had been any heaps of stones or rubbish I must have seen them.

ADMIRAL YOUNG—Was there any part of the works of the island that appeared to be in a state of repair?

A. No part that I saw. Towards the sea they appeared to me to be throwing up or erecting another battery under a very long tier of guns, and close to the water's edge. I mean by that, that the works of the Isle D'Aix were perfect, but that they were erecting another battery towards the sea, close to the water's edge.

Q. You have said that the responsibility of taking the Valiant into the Road of Aix rested entirely on the Captain, the Pilot having refused to take her in; what reasons did the Pilot give for not taking her in?

A. That the water was too shoal, and as the wind and tide then were, he thought the ship would be lost.

Q. Were all the enemy's ships, which were on shore on the Palles Shoal, near enough to the British ships to be destroyed by them?

A. No. The three ships that moved up the Charente were lying to the southward and eastward of the Ocean, and she was never within gun-shot of either the Valiant or Revenge.

Q. Do you mean that those ships were not within reach of the guns of the British squadron before they moved up the Charente?

A. In my opinion they were not within reach.

Q. If the Ocean was not within reach of the guns of the Revenge or Valiant, was she within reach of the guns of any other ship?

A. Not where they anchored, but the frigates might have been moved near enough to have reached her.

Q. Could they have done that without being aground?

A. Yes, at about half tide, I think they might.

ADMIRAL STANHOPE—To what ship did the Calcutta strike?

A. I have already stated that the Calcutta never struck her colours. The officer of the Beagle reported to me that he had taken possession of the Calcutta, and that there was nobody on board, for the crew had abandoned her. I think it was the officer of the Beagle. I know it was the Beagle's boat that made the report to me.

Q. Did you give him any orders in consequence of such report?

A. I did not. It was my intention to have sent a party of marines immediately to her, as she lay considerably without the reach of the enemy's batteries. I think she might have been brought out without the loss of a man. She was upright. I do not think she was afloat. I saw somebody let her anchor go. I do not know who it was. She was set on fire a very few minutes after, but I do not know by whose order.

Lord Gambier—I should be glad to ask a question of Mr. Stokes, who is on board.

Mr. THOMAS STOKES called again.

Examined by Lord Gambier.

Q. At what time did the enemy's two ships of the line, which remained at their anchors on the 12th of April in the morning, cut or slip their cables and run towards the Charente?

A. The Cassard, bearing a Commodore's broad pendant, slipt or cut and made sail for the Charente at ten minutes past one P.M. The Fourdroyant, bearing a Rear Admiral's flag, made sail for the Charente at twenty minutes past one. I noted the time by my watch. I am positive as to the fact, because I made a memorandum of it, which I have now on board the Caledonia.

Q. Do you know when and where the explosion vessel was set on fire, which served to be the signal for the commanders of ships to enlight their ships?

A. I cannot speak as to my own knowledge.

President—The Court can receive nothing but what comes within your own knowledge?

A. I can speak only from the report of Mr. Fairfax to me.

Lord Gambier—Do you remember at what time the three enemy's ships that were on shore upon the Palles and warped off removed from thence?

A. To the best of my recollection about one o'clock, or a little after.

Admiral Young—Did they remove from thence before the ships that were at anchor ran towards the Charente?

A. They did.

Q. You were on board some of the British ships at their anchorage in Aix Roads; were any of the enemy's ships at too great a distance to be destroyed by them?

A. I was on board of the Imperieuse during part of the time of the action. All the enemy's ships were at too great a distance to be destroyed by our ships, except those that were destroyed; the Calcutta, Aquilon, and Varsovie. It is rather doubtful to me, whether the Revenge's shot could have been fired with effect upon the Tonnere.

ADMIRAL DOUGLAS—Do you allude to the Revenge from her being the nearest ship to the enemy?

A. Yes; the Revenge was the nearest ship to the enemy. Perhaps the Tonnere was nearer than she appeared to me to be.

ADMIRAL YOUNG—Was there any other situation in the Road of Aix in which the British squadron could have been placed, from which they could have destroyed the other ships?

A. No, there was not.

Captain JOHN POO BERESFORD, of his Majesty's ship the Theseus, sworn.

Examined by Lord Gambier.

Q. Were you sent into Aix Road with the Theseus in the afternoon of the 12th of April?

A. The Theseus's signal was made about five o'clock to proceed into Aix Road and assist ships in distress, on which we instantly made sail.

Q. Had I sent in line-of-battle ships to Aix Road early in the morning of the 12th of April, were any ships of the enemy in a position to rake and injure our ships as they advanced?

A. Two of the enemy's ships were afloat, one bearing a flag and the other a broad pendant, which, in my opinion, would have entirely crippled any ships sent in to act. Indeed, if two of our ships had been placed as they were, I think we could have defied an enemy's approach, for the approach must have been going end on.

Q. If any of our ships advancing, under such circumstances, had become crippled, either by the ships of the enemy raking them, or by the fire of the batteries, could they have returned, or what would have been the consequence?

A. Under the circumstances of the wind and tide, I do not think they could have returned: if they could, it must have

been by the greatest good fortune. The consequence must have been, in my mind, very serious, if they could not have returned.

(Mr. Stokes's chart was shewn to Captain Beresford.)

PRESIDENT—Captain Beresford must say whether the ships are marked upon that chart as they appeared to him.

A. Those two ships seemed to me, from the position in which I saw them, to be at the mouth of the Charente guarded by the battery.

Q. Is the description of them upon that paper similar to what you observed when you saw them there?

A. That strikes me to be as nearly the position as I can speak to. I did not go into the Inner Road till they moved up. But I should, if I looked at the chart, put my finger and say, they were about there. They seemed to me to be in a situation to defend themselves; and if they had stood and acted properly, I think they might have defended the whole roadsted.

LORD GAMBIER—Could two or three line-of-battle ships, on the morning of the 12th of April, when two of the enemy's ships remained afloat at their anchorage, have advanced to attack them by passing near to the Boyart, and putting their helms a-lee, bearing in mind how the wind was that morning, their fore and main-top-sails being to the mast. Having thus brought their heads to the N.E. would they, by these means, have been enabled to bring their guns to bear with effect upon the enemy's ships, and be themselves out of the reach of shot from the Isle D'Aix?

A. Certainly not.

Q. Could any line-of-battle ships have run to leeward of those two ships of the enemy that lay at their anchorage on the morning of the 12th of April, have had space enough to have anchored, and by these means to have attacked those ships?

A. I should not like to have risked it myself; and it appeared to me, that there was scarcely room for a friend to have passed between them and the shoal, setting aside all idea of an enemy firing in passing; for the smoke alone, besides the ship being crippled, must have caused you to be entangled, and the ship must have gone ashore and been lost. In short, if I had been ordered to attempt it, I should have thought the enterprise most hazardous. The flood tide and the wind were both in.

Q. Did you ever understand by whose orders the Calcutta was set on fire?

A. The only thing I know, with respect to the Calcutta being fired, was by a conversation between Lord Cochrane and myself, in the presence of Captain Bligh, Captain Maitland, and others.

PRESIDENT—Is this strictly evidence, Mr. Judge Advocate?

JUDGE ADVOCATE—Yes, I should think it is; because I conceive it is to affect the evidence of Lord Cochrane. In that point of view I think it is legal evidence.

A. He said he thought it was a thousand pities the Calcutta was not brought off, but that he sent a young cur on board to use his own discretion, and that the boy set fire to her.

LORD GAMBIER—Do you think she might have been brought off?

A. I was not on the spot when she was fired: but Lord Cochrane told me she might have been brought of easily, also in the presence of his brother and others, on board his own ship.

Q. Did you go on board the Imperieuse on the afternoon of the 12th of April?

A. I did.

Q. What was her situation, and what passed between Lord Cochrane and yourself?

JUDGE ADVOCATE—I take it this is to effect the same purpose I mentioned just now, otherwise it is not evidence. I would beg to ask whether it is to produce a contradiction to Lord Cochrane?

LORD GAMBIER—Completely so.

JUDGE ADVOCATE—Because in that way alone will it be evidence.

A. She was on shore. I told him I had just come from the Cæsar, which was also on shore in a critical situation, within the range of shot and shell; that, in my opinion, ships of the line had no business there: that Lord Gambier seemed to me to be most anxious to act with his fleet, but that, if he had sent them in there, it clearly appeared that few would have returned, if any, I think, were my expressions, and that it would have been madness to have done it. His Lordship said that three sail of the line might have been lost, which, in his opinion, did not signify. My reply was, that even one sail of the line being lost would, in my opinion, have been a disgrace to the enterprise and to England. This passed in the presence of Captains Bligh, Woolridge, and Maitland, Colonel Cochrane, his brother, and there were several others round

Lord Cochrane at the time, whose names I do not remember.

Q. Under the circumstances of the wind and the tide of flood making at eight o'clock, did it appear to you, that on the morning of the 12th of April, or at any time when the enemy's ships were on shore, and the signal had been made that they could be destroyed, there was on my part any neglect or unnecessary delay in taking effectual measures for destroying them?

A. None whatever. It was my opinion on board the Caledonia, as well as the opinion of many other officers, that the proper time of tide for sending ships in was at the time of tide that would insure their coming out in case of accidents.

Q. Do you remember the signal from the Imperieuse, on the morning of the 12th of April, that the enemy's ships were on shore, and that half the fleet could destroy them?

A. It was reported to me at the time the signal was made. I was in the cabin getting ready to go on board the Caledonia, and I ran upon deck directly.

Q. It was reported to you officially?

A. Yes; by the First Lieutenant or by the Signal Lieutenant?

Q. What impression did it make upon your mind at the time as to the propriety of such signal being made?

A. I thought the signal a very improper one.

Lord Gambier—I will not ask any further questions upon this subject. I could enter further into it, but I will not detain the Court longer, nor press upon Lord Cochrane further than is necessary for my own defence.

Captain Beresford—I should wish to state the reasons why I thought that signal a very improper one. As it was impossible for the fleet to have acted against them at that moment.

President—From the first attack upon the ships of the enemy to the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. I think every thing was done that could be done, and much more than I ever expected.

Admiral Young—Are you clear in your recollection that the report made to you of the signal was that half the fleet would be sufficient to destroy the enemy?

A. I am certain of it: but I think previous to that the signal was, that the fleet could destroy the enemy.

Admiral Young—You are looking at some minutes—were those made at the time?

A. They were made from a letter I received from the First Lieutenant at the time; but I can recollect the circumstances perfectly without them.

Q. When an Admiral is informed, by signal, that a specific force is sufficient to execute any service, is it generally understood that the force pointed out is the greatest that can be employed, or the smallest that will be required: if you were to tell the Admiral, by signal, that ten ships would be sufficient to perform a service, should you mean to tell the Admiral that he need not send more than ten, or that he must not send less than that number?

A. I should expect the Admiral to send the number I made the signal for: that the service required the force pointed out.

Q. Then, if you had been Commander in Chief of the fleet, and that signal had been made to you, what would you have considered as the smallest force you could have sent in to destroy the enemy in consequence of that signal?

A. At the time that signal was made I would not have sent in one ship.

Q. If you had had the command of a fleet, and a Captain under you had informed you half your fleet could destroy your enemy, what proportion of your fleet should you send in?

A. I think, to make sure of it, I should have been inclined to send in more than half; for I would not let it take the chance.

Q. Do you think that, on the morning of the 12th of April, it would have been prudent or proper to have sent in more than half the fleet to the Road of the Isle of Aix to destroy the enemy?

A. It would have been very improper, as I have said in the former part of my evidence. I do not think ships of the line had any business there. There is one thing I omitted in my statement of what passed on board the Imperieuse. When I said that I thought ships of the line had no right there, Lord Cochrane said that there should have been more bomb-vessels sent from England; that they would have annoyed the enemy if they had not destroyed them. I wish to add that to my evidence.

President—Is that relevant evidence?—The question is, whether the force there was in the best manner applied. I do not think that what might have been with propriety sent from England at all applies to the question before us.

Lord Gambier—I have no wish at all upon the subject.

CAPT. BERESFORD—I only state it as that which in part fixes the strong impression on my mind as to the impropriety of line-of-battle ships going in there; but I have no wish that it should be inserted if it is not thought relevant.

Captain ALEXANDER ROBERT KERR, of His Majesty's Ship the Revenge, sworn.

Examined by Lord Gambier.

Q. Do you remember the state of the enemy's fleet on the morning of the 12th of April last at day-light?

(Mr. Stokes's chart was shewn to Captain Kerr.)

A. I think the situation is as nearly marked here as can be. I recollect the situation of the enemy's fleet perfectly: seven sail on shore, and two sail of the line afloat; one line-of-battle ship advanced some distance up the river, and the frigates all shut in with the Isle D'Aix.

Q. Do you remember a telegraphic signal being made by the Imperieuse, in the morning of that day, that seven of the enemy's ships were on shore, and that half the fleet could destroy them?

A. Perfectly well; I read the telegraph off myself.

Q. Are you certain as to the word *half?*

A. Yes, I am. Whether it was may be destroyed by half, or half the fleet can destroy them, I am not certain; but I am quite positive that the word *half* was used. This was as nearly about six o'clock as could be.

Q. Had I sent in line-of-battle ships to Aix Road at the time that signal was made, or soon afterwards, were any ships of the enemy's fleet in a position to enable them to rake and injure our ships as they advanced?

A. The two ships that were lying afloat were certainly in positions to have raked and crippled any ships advancing: the three-decker was likewise in a situation that a part of her guns would have borne upon the ships going down.

Q. If any of our line-of-battle ships, advancing under such circumstances, had become crippled, either by the fire from the enemy's ships or their batteries, could they have returned from thence, or what would have been the consequence?

A. No ship could have returned, as the wind was directly in, blowing fresh; and, from the depth of water I found in the Revenge at an earlier time of the ebb in the afternoon, it is my firm belief that the ships advancing could not have got sufficiently near to have brought those two ships to close action, and would have grounded themselves within range both of the

batteries and the line-of-battle ships. The consequence must have been the inevitable loss of the ships.

Q. At what time, in the afternoon of that day, did I order you to proceed with the Revenge to the attack of the enemy; and state whether the orders I gave you were discretional or otherwise?

A. At two o'clock. I certainly considered the orders in some degree discretional, from the Pilots, both of my own ship and the Caledonia, not being sufficiently acquainted whether there was water enough for the line-of-battle ships to act in, in Aix Roads.

Q. When you stood out from under the batteries in the Revenge, it appears that you ran to the southward or westward; were you confident of finding there sufficient water for the Revenge; or what were your motives for going in that direction?

A. No; I had no idea that I should be able to keep the Revenge afloat. To the southward was the only position I could take; and I conceived it my duty to let her ground out of range if possible, rather than within.

Q. From the situation in which you placed the Revenge when opposed to the enemy, and the depth of water you found round you, would it have been possible for line-of-battle ships or large frigates to have gone a-head of you to attack the enemy's three-decked ship, and others, towards the entrance of the Charente with effect?

A. Certainly not. When the Revenge quitted her situation, her keel was in the mud, and I was forced, from the ebb tide making down the Charente and the wind on the larboard beam, to make sail in shore. We found so very little water as we advanced, that any ship, however short a distance a-head, could not possibly have got out again, and must have grounded and been lost, as she was immediately under the fire of the enemy's batteries.

Q. Was every exertion used, according to your judgment, from your observation, by every ship or vessel sent in to attack the enemy?

A. Every thing appeared to me to have been conducted by the different ships with the greatest zeal and gallantry.

Q. Were the three ships of the enemy that were on shore upon the Palles, and which afterwards got off, at any time in a position to be attacked by us?

A. Certainly not: they were advanced farther than the Tonnere, and the Revenge's shot just reached the Tonnere.

Q. Could any more of the enemy's ships have been destroyed than were destroyed, had any of the King's ships been sent to attack them sooner than they were ordered in for that purpose?

A. No; it is my firm belief that had ships gone in sooner they would have been crippled, by which means the French ships (I mean the two that remained afloat) would have discovered the strength of their position, of course remained instead of going up the river, and prevented the four ships that were afterwards destroyed from being so.

Q. Under the circumstances of the wind and tide, did it appear to you that on the morning of the 12th of April, or at any time when the enemy's ships were on shore when the signal had been made that half the fleet could destroy them, there was on my part any neglect or unnecessary delay in taking effectual measures for destroying them?

A. As far as so very junior an officer as myself could presume to judge of the conduct of the Commander in Chief, I thought that every thing was done that could possibly be done; and had the ships gone in sooner, I am confident a number must have been lost.

PRESIDENT—From the first attack upon the ships of the enemy, to the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. Every thing.

ADMIRAL YOUNG—Did you, on the morning of the 12th of April, see the three ships that were on shore which you have represented as being too far from the British squadron to be destroyed by them?

A. Yes.

Q. Were they in the same situation in the afternoon as you saw them in the morning?

A. No; they had got off, and advanced some distance up the river.

Q. Were they, when you saw them in the morning, in a situation to be destroyed if they had been attacked?

A. No; certainly not.

Q. What would have prevented their being destroyed?

A. The two line-of-battle ships that were lying afloat, and the depth of water, preventing our ships advancing sufficiently near.

Q. How long were you at anchor in the Road of Aix?

A. An hour and a half, or rather more.

Q. Did you observe the state of the fortifications on the Isle of Aix?

A. No, I did not; the situation of the Revenge was so critical, that I was otherwise taken up.

Mr. SAMUEL RAVEN, Master of His Majesty's Ship the Cæsar, called again.

Examined by Lord Gambier.

Q. Had any ships of the line been sent into Aix Road by me on the morning of the 12th of April last, to attack the enemy's ships that were aground, at what time was it possible for them to return?

A. Not during the day—they could not have returned.

Q. Would they have been within the range of the shot from the enemy's batteries while they remained there?

A. The greatest part, I conceive, must have been; particularly the Cæsar.

Q. If the wind had continued as it did the whole of that day, and if those ships had been crippled in their masts, must they not have remained under the fire of the enemy's batteries until the wind should shift, and what would have been their fate?

A. The greatest part must have remained under the batteries, and, without a favourable wind, I think the greatest part of them must have been lost.

(Mr. Stokes's Chart was shewn to the Witness.)

Q. Are the situations of the ships marked upon that chart, the same as they appeared to you?

A. They are.

Q. Do you think that any might have escaped?

A. Not with the wind as it was.

PRESIDENT—Do you mean that they could not have got off even with the ebb tide?

A. Not as the wind was.

Q. Could line of battle ships, not having met with any accident, work out from Aix Roads to the Road of Basque, against a northerly or north-west wind, with an ebb tide?

A. They may, from the anchorage where the French ships lay, but not without being exposed to the fire both from Isle D'Aix and Oleron, as they worked out.

LORD GAMBIER—When the enemy's ships that were aground upon the Palles Shoal, and the two that were afloat, ran to the entrance of the Charente, could they have been approached by British line of battle ships, or large frigates?

A. From the knowledge I have of the place, I do not conceive they could have been approached by large ships; for, during the time they were running in, they were observed from the Cæsar to heave their shot overboard, and other things, to lighten the ship, and they frequently hung aground

for several minutes, and then went on again. I am not positive as to the large frigates, as I do not know the depth of water.

Q. State what part of Aix and Basque Roads you have sounded, and how far the information you obtained agreed with the French chart in general?

A. I have surveyed every part of great and little Basque Roads, and find the depth of water to differ materially from the French chart, nor could I at any time get three proper angles together when the ship was at anchor. I have little or no knowledge of the Isle D'Aix Roads, being only in there in the Cæsar that night after the ship was a-ground. I sounded round the ship nearly a cable each way, and found very little difference in the depth of water, except to the north-west, which was four fathoms and a half.

Q. You have been there in the Cæsar, under the flag of Sir Richard Strachan, have you not?

A. Yes; I was there nearly two years.

Q. Did you make any observations upon the anchorage of the enemy's squadron that were there before, and upon the rise and fall of the tide?

A. The enemy were always moored very close to each other, and close to the Isle D'Aix. On the 1st August, 1807, the enemy's ships came out for the purpose of manœuvring, and were pursued by the British squadron under the command of Sir Richard Strachan; they got into the Isle D'Aix Roads before we could come up with them. It appeared from the manner in which they went in, that the anchorage was very much confined, only going one ship at a time, and they anchored so close, that it was impossible to have gone through their line otherwise. I conceive it was the intention of Sir Richard Strachan to have attacked them, but from the strength of the batteries, and the manner in which the ships were laid, we worked out again. The enemy's ships were six sail of the line, two frigates, and four brigs; they anchored nearly north and south, as well as I can recollect, in one line. The rise and fall of the tide is generally eighteen feet; I have known it rise nineteen feet, with a strong north-west wind at spring tides.

Q. Did they appear ever to take the ground at low water at that anchorage?

A. It appeared frequently from the Cæsar, that they did at low water, at spring tides, touch the ground. I speak more particularly to the Majestien, for, after the other ships had swung, she appeared to hang aground abaft, and did not swing for a quarter of an hour afterwards, and whenever it came to blow from the north-west, they always struck their

topmasts before the British squadron did in Basque Roads, which we supposed was to ease the ships from pitching, and from striking ground abaft in the last quarter ebb, or at low water.

ADMIRAL YOUNG—At what time on the 12th of April did the Cæsar go into the Road of Aix?

A. Between five and six o'clock we weighed, and the ship took the ground a little after seven.

Q. How was the wind when you went in?

A. From N.W. to N.W. and by W.

Q. At what time did the Cæsar return to Basque Roads?

A. A little after four the next morning.

Q. How was the wind when she went out?

A. South-west.

Q. Was S.W. a fair wind for her to go out of Aix Roads?

A. Yes; the course is north and by west out.

Captain STAIR DOUGLAS, of His Majesty's Ship the Bellona, sworn.

Examined by Lord Gambier.

Q. Do you remember the state of the enemy's fleet in Aix Road, on the morning of the 12th of April at day-light?

(Mr. Stokes's Chart was shewn to Captain Douglas).

A. To the best of my recollection, two sail of the line were afloat—the three-decker, and three sail, appeared to be a-ground.

Q. Were you ordered by me to advance towards the Boyart Shoal on that morning?

A. Yes, in the cabin of the Caledonia—Sir Harry Neale's cabin—Admiral Stopford was present.

Q. Had I sent in any ships to Aix Road at day-light, or soon afterwards on that morning, to attack the enemy; were any of the enemy's ships in a situation to enable them to rake and injure our ships as they advanced?

A. Certainly; I think they were.

Q. At what time could our ships have returned during that day?

A. The wind blowing very strong into the harbour of Aix, they could not have returned until the ebb, and then they must have worked out, and probably been disabled by the batteries or the ships they must have engaged.

Q. If any of the English ships, advancing under such circumstances, had become crippled, what would have been the consequence?

A. The impression made on my mind at that time was, that they would have been burnt by red hot shot, which the enemy had sufficient time to prepare.

Q. Under the circumstances of the wind and tide, did it appear to you, that on the morning of the 12th of April, or at any time when the enemy's ships were on shore, when the signal had been made that half the fleet could destroy them, there was, on my part, any neglect or unnecessary delay in taking effectual measures for destroying them?

A. On the contrary; I think the happy time for effecting it was chosen by the Commander in Chief.

PRESIDENT—From the first attack made upon the ships of the enemy, to the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. In my opinion every thing was done that could be done under the circumstances.

ADMIRAL YOUNG. Was the Bellona in Basque Roads when the Commander in Chief arrived there?

A. We arrived there with the Commander in Chief; we sailed with him from Plymouth.

Q. Can you state, from the time of his arrival in Basque Road to the time of his leaving it, any instance of neglect in his conduct and proceedings, as Commander in Chief of the Channel Fleet?

A. As far as I can judge of the merits of the Commander in Chief, he evinced the greatest zeal to promote the public service on all occasions, and I do not know of any neglect whatever.

Captain WILLIAM GODFREY, of His Majesty's Bomb Vessel the Etna, sworn.

Examined by Lord Gambier.

Q. Were you ordered into Aix Roads by me on the 12th of April, to bombard the enemy's ships that were aground, and at what time of the day?

A. I was; my signal was made about half past ten o'clock in the morning, for myself to come on board the Caledonia, and the Etna to weigh at the same time.

Q. Did you get into Aix Road before the Imperieuse had

commenced firing upon the enemy—before she went into action—and how long?

A. Yes, nearly half an hour.

Q. At what time did you pass the Imperieuse?

A. About one o'clock.

Q. What gun-brigs had you with you?

A. Three, which went in with me—the Conflict, the Insolent, and, I think, the Encounter.

Q. Were you employed on the 13th, in throwing shells at the enemy's ships aground, at the mouth of the Charente?

A. Yes.

Q. Did it produce any effect upon the enemy?

A. That is really matter of opinion; I thought it did.

Q. When was the 13-inch mortar of the Etna split?

A. On the 13th, at night.

Q. When were the 10-inch shells expended?

A. The 14th, at night.

Q. Did you keep up firing occasionally as the tide and wind served, until that time?

A. Yes.

President—Were the ships and vessels sent in on the 12th of April, to attack the ships of the enemy as soon as it could be done with propriety, considering the state of the wind and tide?

A. Yes.

Q. From the first attack upon the ships of the enemy until the final cessation of hostilities against them, was every thing done that could be done to effect their destruction?

A. Yes, most certainly.

Admiral Young—Was the Etna anchored in a situation out of the reach of the guns on the batteries of Aix, on the 12th?

A. No; I think some of their shot went over us.

Q. Did any shells annoy you?

A. The shells went far beyond us.

Q. Was that a situation from which any of the enemy's ships on shore would have been destroyed by guns?

A. No.

Q. When were you ordered to leave the Road of Aix?

A. On the 29th, I think.

Q. How was the wind when you left it?
A. A light air from the southward.

Q. That was then a fair wind to sail out?
A. Right out.

Q. While you were at anchor in the Road of Aix, did you observe the fortifications on the Island?
A. Yes.

Q. Did you perceive that they were blown up and destroyed?
A. No.

Q. Did you perceive that any part of them were under repair?
A. I did see people at work, which I conceived to be making a platform or battery of new work; they were making new ground.

Q. Did you count the number of guns in the works of Aix?
A. I did.

Q. How many can you distinctly speak to?
A. I can speak distinctly to there being on the first day forty at least, that commanded the entrance to the Charente on the south-side of the island.

Q. Do you mean, by commanding the entrance of the Charente, that they would bear on any ships that might be sent in to destroy the French squadron?
A. Certainly. I should suppose thirty of them would bear on the anchorage of Aix Roads; the new work was constructing on the south-west angle, lower towards the water.

PRESIDENT—Did you observe any heaps of earth, rubbish, or stones, by the fortifications on the Isle D'Aix, which indicated that any part of those works were in a ruinous state?
A. No.

ADMIRAL YOUNG—During the time the Etna was in Basque Roads, can you state any instance of neglect or misconduct in the proceedings of the Commander in Chief of the Channel Fleet?
A. No, most certainly not.

PRESIDENT—You continued in Aix Roads from the 12th to the 29th of April?
A. Yes.

Q. Do you mean literally in Aix Roads?
A. Yes, I do.

LORD GAMBIER—It may be as well for Captain Godfrey to define what he describes as Aix Roads, because it was up towards the Maumusson passage, where it has been stated there was anchorage for line of battle ships.

PRESIDENT—We are not to understand, that the whole of that seventeen days you were lying within range of shot and shells?

A. No, certainly not.

(The chart was shewn to Captain Godfrey, and he pointed out his position to the members of the Court.

JUDGE ADVOCATE—When did you enter the Road of Aix—where did you anchor—and when did you leave it?

A. I entered the 12th. We shifted our anchorage eight times for the purpose of bombarding the enemy, and we continued to the 29th, when we left it.

PRESIDENT—You did not continue in what is there described as Aix Roads, any longer than the 12th?

A. No, I had to go through Aix Roads to the mouth of the Charente.

Lieutenant HOCKINGS, of His Majesty's Ship the Caledonia, called again.

Examined by Lord Gambier.

Q. Was the signal of recall made to the Imperieuse on the 13th of April?

A. No, not that I recollect.

Q. Must you not have known it if there had been a signal to that effect?

A. Certainly.

Q. Did you observe a telegraphic signal made by the Imperieuse, on the 14th of April—"If permitted to remain, can destroy enemy,"—and at what time of day?

A. Yes, I recollect that signal; I believe it was just after the recall was made on the 14th of April, about forty minutes after nine A.M. It is on the signal log.

ADMIRAL YOUNG.—You are Signal Lieutenant of the Caledonia?

A. Yes, I am.

Q. You will then be able to speak to all signals that were made by the Imperieuse on the morning of the 12th April?

A. Yes, I can.

Q. Can you say positively that the telegraph communication mentioned, was "half the fleet," is sufficient to destroy the enemy? I particularly mean to press the word "half," upon your mind.

A. I cannot answer as to that signal, because I was coming on board the Caledonia from the Imperieuse, and was not there till seven o'clock, and that signal was made at five: I had been in one of the fire-ships.

Q. By whom was that signal marked?

A. By the signal mate, Mr. Sparshott.

Q. Did the Imperieuse, at any time after you returned on board the Caledonia, inform the Commander in Chief, by signal, that any smaller part of the fleet than one half could destroy the enemy?

A. Not that I recollect.

Lord Gambier—With the permission of the Court, I will call the Signal Mate, that they may propose the question to him as to the signal.

Mr. SAMUEL SPARSHOTT, Signal Mate of His Majesty's Ship the Caledonia, sworn.

President—Were you on board the Caledonia on the morning of the 12th of April, and were you employed in taking down the signals made to and from the Caledonia?

A. Yes.

Q. What was the first signal made to the flag ship, from the Imperieuse, on that morning?

A. The first signal made by the Imperieuse I could not understand—I reported it to Sir Harry Neale, and he desired the signal to be made to make that message over again; the Imperieuse then made that half the fleet could destroy the enemy—seven on shore.

Q. Did you observe the communication by the telegraph yourself, and are you certain that half the fleet was the communication made?

A. I did observe it myself, and am quite certain the signal, "half the fleet," was made.

Q. During the whole course of that day (the 12th of April), was any signal made by telegraph, or otherwise, from the

Imperieuse, to the Caledonia, that two ships could destroy the enemy?

A. There was no such signal made.

PRESIDENT—As Mr. Sparshott is before the Court, does your Lordship wish to ask him any questions?

LORD GAMBIER—No.

Mr. EDWARD FAIRFAX, Master of the Fleet, called again.

Examined by Lord Gambier.

Q. Do you recollect when and where the explosion vessel blew up on the night of the 11th April?

A. She was about two cables lengths from the Lyra. The Lyra is marked in the chart produced by me, as well as the explosion vessel, when she blew up—the fire-vessels all seemed to steer for that point—I hailed four of them, and the Mediator, and desired the Mediator to steer south-east, or else she would miss the French fleet—from the other vessels I received no answer.

PRESIDENT—To the best of your judgment, what was the distance of the explosion-vessel from the enemy, when she blew up?

A. About a mile.

ADMIRAL YOUNG—What sort of a night was it?

A. Very dirty, and blowing strong—the Lyra was pitching nearly bows under, with a cable out, the topgallant-mast struck.

Q. Was the night light or dark?

A. Very dark at intervals.

Q. I think you are Master of the Caledonia, or Master of the Fleet?

A. I am.

Q. How then did you, in a very dark night, ascertain that the explosion-vessel blew up within a mile of the enemy?

A. By her comparative distance from us in the Lyra, judging the distance she was from the enemy. I hailed the boats from the explosion-vessel immediately, and demanded the counter-sign—this was immediately after the explosion—they did not know it, but answered they were from the Imperieuse, I having said I would fire into them if they did not answer.

Q. Where were you when the explosion took place?

A. In the Lyra.

PRESIDENT—Had you ascertained the distance that the Lyra herself was from the enemy, before it was dark, on the 11th of April?

A. I just anchored at dusk—it was dark twilight, and by the bearings and computed distance she was a mile and a quarter from the enemy's line-of-battle ships.

Q. You think the explosion-vessel was a quarter of a mile nearer than you?

A. Yes.

Q. Who set fire to the explosion-vessel?

A. The boats from the Imperieuse.

PRESIDENT—What I am desirous of knowing is, by whose directions she was set fire to in that situation?

A. I can answer that only, by mentioning a conversation with Lieutenant Bissel, when he came on board the next day. Lieutenant Bissel and Lord Cochrane were together; and I asked, "what was the reason you set fire to the explosion-vessel so close?"—he said the fuzees burnt only six minutes and a half, instead of twenty. Lord Cochrane himself lighted the fuzees.

Q. By being so close, you meant so close to the Lyra, not the enemy?

A. Yes; I said, you had like to have blown me up, and not the enemy.

Captain JOHN TREMAIN RODD, of His Majesty's Ship the Indefatigable, called in again.

LORD GAMBIER—The question I was about to propose is not considered by the Judge Advocate strictly applicable, therefore I shall not have occasion for Captain Rodd. The question related to the application made by the Master of the Imperieuse, for access to the Indefatigable's log.

ADMIRAL YOUNG—How long were you in Basque Roads with the Commander in Chief?

A. From the 3d of April to the time the Commander in Chief sailed—I sailed with him.

Q. Can you state any instance of neglect or misconduct in the Commander in Chief, during that period?

A. None whatever.

JAMES WILKINSON, Esq. called again.

Examined by Lord Gambier.

Q. Do you know of the issuing of the General Orders of the 15th of March, the 25th of March, and the 11th of April, which are stated in my defence?

A. Yes.

Judge Advocate—They are similar to those stated in the Defence?

A. Yes, they are.

Lord Gambier—Did you hear Lord Cochrane, on his coming on board the Caledonia on the 14th of April last, say any thing to me respecting the loss he calculated upon of any of the King's ships, if I had sent them in to the attack of the enemy, agreeably to his signal?

A. Yes, I did. Lord Cochrane, in conversation, told the Admiral, that if he had sent in the ships agreeably to his signal, he calculated or reckoned upon three or four of them being lost, or words to that effect. This alludes to the signal of the 12th—"Seven of the enemy's ships on shore—half the fleet can destroy them."

Q. Did he say any thing respecting my own conduct or misconduct, or that of any of the officers of the ships?

A. He said nothing of your Lordship's conduct in my presence—he spoke generally of misconduct of the sloops and small vessels, and of a great many of the fire-ships, and he particularly noticed the gun-brigs—small vessels was the expression—I am confident the men of war sloops were intended to be referred to, from the circumstance of the Beagle being mentioned. Lord Gambier expressed his regret that his Lordship entertained so bad an opinion of the conduct of the small vessels, and particularly asked Lord Cochrane as to the conduct of the Beagle; he observed to Lord Cochrane, that the conduct of the Beagle had gained her the admiration of himself and the officers of the fleet who had observed her, and said surely she behaved well, or words to that effect. Lord Cochrane, in reply, said, I have a great regard and esteem for Captain Newcomb: and from his having been an old messmate of mine—

President—Mr. Judge Advocate, there appear to be some doubts entertained as to the strict propriety of this; it is commenting on the conduct of officers whose conduct is not called into question, and I think it might be attended with very unpleasant consequences. I am not singular in my opinion; some other members round me have also doubts of the strict propriety of it.

Mr. Wilkinson—I beg to submit to the Court——

President.—You have no apology to make—you have done very properly in answering the question.

Judge Advocate—I understand the bearing of it to be to shew some contradiction to Lord Cochrane; certainly this, as to the conduct of other officers, does not appear to be relevant, unless it is in that point of view.

President—If it were any thing respecting the conduct of the Commander in Chief, there could not be the shadow of a doubt as to the propriety of it; but it may be a question, whether it should be so extensive as it becomes when it respects the conduct of other persons.

Judge Advocate—I understand it is intended to point at the expression as to casting blame, to shew whether that expression alluded to blame cast on Lord Gambier, or upon other persons.

Lord Gambier—Certainly it is. If the Court have any doubt as to the propriety of the evidence—if Mr. Wilkinson will state whether he heard Lord Cochrane express any dissatisfaction with my conduct, that will be quite sufficient.

President.—I should think it will be better to confine Mr. Wilkinson to specific questions.

Admiral Stanhope—The difficulty now is, as Admiral Campbell observes, that we have gone a good way into the conduct of another officer, and it may not be pleasant to leave it as it stands at present.

Judge Advocate—We have certainly dipped very far into the conduct of another officer; but it does not at present appear what is intended to be said of his conduct—Lord Gambier considers it as perfectly good.

Lord Gambier—Perfectly so—all I wish, is to prove the assertion I have made in my defence, that there was no blame imputed to me, by Lord Cochrane, at that time.

Judge Advocate—Mr. Wilkinson was perfectly correct in giving his answer, because the question required it.

President—I have already said to Mr. Wilkinson, you have no need to make an apology—you have conducted yourself with great propriety in giving the answer; the only doubt that existed in my mind, was whether it was that sort of evidence which it was proper for the Court to receive, though very proper for the witness to give, when the question was put to him.

JUDGE ADVOCATE—I should think the proper question will be, whether Lord Cochrane found fault with Lord Gambier's conduct.

LORD GAMBIER—That will be all I desire. I declare upon my honour that he never did.

PRESIDENT—The question appears to be, whether Mr. Wilkinson, having now gone so far, he shall proceed with his narration.

JUDGE ADVOCATE—I should think it would be better he should proceed now to the close of whatever passed as to Captain Newcomb, for it will be published, and it is very unpleasant that it should stand as it does at present; there are several reporters for the papers present, and it will be published imperfect if it stands as it does.

Mr. Wilkinson proceeded:

And from his having been an old messmate of mine it may be supposed I should say every thing in his favour; but, my Lord, I cannot make an exception respecting the conduct of the officers commanding gun-brigs.

He made comments on the conduct of other officers, which I shall not relate unless the Court require it.

PRESIDENT—My Lord Gambier, there will be time for another witness.

LORD GAMBIER—Having taken up so much of the time of the Court, I really am averse to intruding myself any further upon it. I will not call any more witnesses, but will now leave my case to the Court.

PRESIDENT—The time of the Court is of no sort of consequence; we wish you to exercise the full judgment of your own mind, to stop when you please, and proceed as long as you please. You will consider whether you would not wish to call any of the distinguished officers who have not been examined.

LORD GAMBIER—No, Sir, I do not feel it necessary to call any other.

PRESIDENT—If you have the least wish I hope you will avail yourself of the opportunity. Perhaps you will take till to-morrow morning to consider of it.

LORD GAMBIER—Then if the Court please, I will defer till to-morrow morning my decision upon that point.

PRESIDENT—It will be only adjourning a quarter of an hour sooner than usual, and then you will have an opportunity of considering whether there is any point on which you should wish to give further evidence.

Adjourned till to-morrow.

SEVENTH DAY,

Wednesday, August 2, 1809.

Rear Admiral STOPFORD called in again.

President—Admiral Stopford has desired to be called in to correct a little inaccuracy in his evidence.

Judge Advocate—I will read the evidence, with the alterations I had made with respect to the hazardous undertaking of the fire-ships: it was too much exemplified in what happened to the fire-ship fitted out by the Cæsar. She went in before the explosion-vessel, and before the Mediator; getting near the French fleet she brought to, seeing no other vessel near her until the explosion-vessel blew up close to her, killed two men on board of her, and damaged one of the boats in which the men were to come away from her; the men were therefore much crowded in the other boat, a few only being able to come away in the damaged boat. The acting lieutenant and one man died from fatigue in the bottom of that boat, and the boats were both picked up by the Lyra.

Admiral Stopford—That is the alteration I wished to make.

Admiral Young—From the time of the arrival of the Commander in Chief in Basque Roads, to the time of his leaving it, can you state any instance of his neglect, misconduct, or inattention, to the public service?

A. So far from it, that it always appeared to me that the Commander in Chief was actuated by a warm zeal for the service, and a desire to discharge the duties intrusted to him with punctuality and effect.

Lieutenant HOCKINGS called in again.

Admiral Young—You have said that on the 14th the signal was made by the Imperieuse, to say that enemy's ships might be destroyed?

A. The signal made by the Imperieuse was, if permitted to remain, can destroy the enemy.

Q. To whom did you report the making of that signal?

A. To Sir Harry Neale, the Captain of the Fleet.

Q. Do you know whether any thing was done in consequence of it?

A. I believe there were some launches ordered in by the Admiral, but I am not confident of it. Vessels were passing to and fro from the Admiral, and these launches were sent in to the Imperieuse. I do not know what they were passing about. The Aigle had been ordered to go in some time before, but in consequence of her having made a signal that her prisoners on board were suspicious, she was detained to send the prisoners on board the Theseus, and she then went in to relieve the Imperieuse as soon as she had put her prisoners on board the Theseus, but what orders she took in I can not say.

Lord Gambier—Was not there a signal made to the Imperieuse to communicate with L'Aigle in consequence of that signal?

A. There was a telegraph signal.

Q. Did L'Aigle go to the anchorage where the Imperieuse was, and relieve her, and how soon?

A. I cannot exactly say the time she anchored, but she went in immediately after she had removed the prisoners.

President—Were any operations undertaken against the enemy upon the junction of L'Aigle with the Imperieuse?

A. Not in conjunction with the Imperieuse, but the next day bombs were sent in, and the gun brigs.

Lord Gambier—I think it was stated in my defence, or in my letter to the Admiralty, that the Thunder bomb arrived after that time.

President—I think it was, but perhaps your Lordship will ask the question.

A. The bomb I spoke of was the Etna. She was the only one then with the fleet.

Lord Gambier—Was the other bomb, the Thunder bomb, sent in as soon as she arrived?

A. Immediately she anchored and got her orders, and went in the same morning. I see by the log it was the 19th she arrived.

President—Did the Vesuvius bomb arrive before your operations against the enemy had ceased?

A. No other bomb arrived until after the operations had ceased. Here are the Devastation and the Hound put down on the log as arriving on the 27th, after the operations had ceased. I have not got the name of the Vesuvius as arriving at all while we were there.

Lord Gambier—Were any of the enemy's ships within the range of bombs after the Devastation and the Hound arrived?

A. I do not think they were.

ADMIRAL YOUNG—Did you form that opinion on board of the Caledonia, or were you at any time in Aix Road to form it there?

A. On board the Caledonia. I never was in Aix Road.

LORD GAMBIER—Do you know on what day the Regulus, which was on shore under the town of Fouras, got off, and went up the Charente?

A. I think it was at day-light in the morning of the 29th.

Q. Are you sure as to that?

A. I can only speak from the log—it was noted on the log—it appears on the log, that at day-light on the 29th, an enemy's two-decked ship got off, and moved to the westward; it ought to have been eastward, and I believe that was the ship.

LORD GAMBIER—I only beg to remark to the Court, that it appears by the evidence of Captain Wolfe, who commanded the squadron upon that service, that he received from me all the assistance he required for carrying it on.

PRESIDENT—That is in the perfect recollection of the Court. It was not upon that ground that the Court wished to see Lieutenant Hockings.

LORD GAMBIER—Mr. President, previous to my withdrawing yesterday from this place, I intimated an intention of closing my evidence and my defence, and this I did from respect to the Court, being averse to engage more of their time than I conceived to be necessary, satisfied that every material point of the charge had been fully refuted; but as all the captains of the inshore squadron have been before the Court, with the exception only of three, I would claim your indulgence so much farther as to call in those officers, intending to put to them a very few questions; one of those is Captain Newcombe. As his name appeared yesterday in evidence, and it may lead to an inference prejudicial to that meritorious officer, if I did not notice his conduct, I beg leave to assure this Court, that he acquitted himself in the command of the Beagle in Aix Roads, in a manner highly honourable to himself, and certainly satisfactory to me.

Sir HARRY NEALE, Captain of the Fleet, called.

SIR HARRY NEALE—I would beg to address a few words to the Court before I am sworn. Upon taking this oath which I have read, and of which I understand the extensive nature, am I to state to the Court every thing which may occur to me, as to proposals and private communications with the Commander in Chief, or solely to answer the question put to me? I take the liberty of asking that, because I stand in a peculiar situation with the Commander in Chief.

PRESIDENT—I apprehend myself—if the Court differ with

me they will state it—that you are not called upon to relate private conversations you had with the Commander in Chief in your intimate and particular situation.

Sir Harry Neale—There were continual conversations between the Commander in Chief and me. I have given him my opinion on different services; some of those he may have approved, and some he may not have approved.

President—Certainly. I apprehend those are not to be stated.

Admiral Young—If you are directed to detail any circumstances, you then are to say all you know of the circumstances or the events you are directed to detail; but if you are asked a specific question, your oath, I should imagine, will only oblige you to answer specifically and directly, and as fully as you can the question which is proposed to you.

(Sir Harry Neale took the Oath.)

Admiral Young—Did the Signal Lieutenant of the Caledonia, on the 14th of April, report to you that the Imperieuse had informed the Commander in Chief, by signal, that if allowed to remain she could destroy the enemy's ships?

A. I was walking the poop when I directed, by the Commander in Chief's order, the signal of recall to be made to the Imperieuse. The Imperieuse replied, if permitted to wait can destroy enemy. It was reported to me.

Q. Was any thing done in consequence of that signal?

A. Yes.

Q. What was done?

A. Captain Wolfe of L'Aigle was directed to proceed and take the command of the in-shore squadron, and the Imperieuse was directed by telegraph to communicate with L'Aigle, but whether he did communicate the information, or any plan, in consequence of that direction, or to the Commander in Chief upon his return to the Fleet, I am ignorant of.

Q. Did L'Aigle go into Aix Roads in consequence of that signal?

A. Yes.

A. Is L'Aigle a ship of equal force, or nearly equal force, to the Imperieuse, so as to be as well calculated to destroy the enemy as the Imperieuse would have been?

A. Yes, she is.

Q. Were any other ships or vessels sent in with L'Aigle, or in consequence of that signal?

A. To the best of my recollection all the small vessels, or nearly so, had been sent in the day before, no other was sent in on that occasion; if there was any other it was only the Lyra.

PRESIDENT—As Sir Harry Neale is here, would your Lordship ask him any questions.

LORD GAMBIER—Had you any conversation with Lord Cochrane at any time, respecting the accuracy of the French charts?

A. Yes.

Q. What did he state as to their accuracy or inaccuracy?

A. I was conversing with Lord Cochrane about the 6th of April, respecting the distance that the British fleet was anchored from the French fleet: his Lordship stated that the fleets were nine miles from each other; I replied that they were only six. It had been ascertained by angles as well as by cross-bearings upon the chart; his Lordship replied, the chart was not to be depended upon. I was speaking of a French chart. I had marked the situation of the fleet upon the French chart.

ADMIRAL SUTTON—Did it happen to be what is called the Neptune Francoise?

A. That was what I was speaking of. I had that in my cabin, and concluded from what followed that that was what he alluded to. His Lordship said, that the French were in the habit of giving a smaller space upon their charts than was true; that he had an instance of it upon some former occasion; when standing in to the Pertius Breton, he expected to have found, by the chart, that the space was small, and he found it near five or six miles broad.

Q. What number of furnaces for heating shot did Lord Cochrane report to me that he had observed in the fort of the Isle D'Aix, in reconnoitring previous to the 11th of April?

A. I did not hear him report to you, but he reported to me on his return from reconnoitring, I think on the 5th of April, that he had seen eighteen hundred men, and five furnaces burning at that time.

Q. Was not the firing of the explosion-vessel committed to the direction of Lord Cochrane?

A. Entirely.

LORD GAMBIER—Under the peculiar circumstances in which Sir Harry Neale stands, as my confidential friend and first captain of the Caledonia, I do not think it proper to ask him any further questions.

PRESIDENT—You have stated the observations Lord Cochrane reported to you, as to the number of men and the furnaces; did he state to you how many guns he saw mounted on the batteries of the Isle D'Aix?

A. No, he did not; he reported the west end of the battery to be in a state of rubbish; it was visible from the fleet that it was newly forming; the west end pointed towards the Boyart.

PRESIDENT—Your Lordship intimated an intention of calling other witnesses—the Court is now ready to hear any other you have to produce.

LORD GAMBIER—It is material for me here to observe that Lord Cochrane had on the 13th made the signal to me—Can destroy enemy; on which account I did not then recal the Imperieuse; but as nothing had been effected by his Lordship, when, on the following day, he made the signal to me, when recalled, "If permitted to remain can destroy enemy," I thought it unnecessary to pay more attention to this signal than to direct his Lordship by signal to communicate with L'Aigle, which ship Lord Cochrane knew I had ordered to relieve him. I concluded, therefore, Lord Cochrane would communicate to Captain Wolfe any measures he had in contemplation for destroying the enemy, and wished to have his Lordship's report of the proceedings, that I might transmit my report to the Admiralty without delay. I will now, with the permission of the Court, call Captain Hardyman.

Captain LUCIUS HARDYMAN, of His Majesty's Ship the Unicorn, sworn.

Examined by Lord Gambier.

Q. At what time in the afternoon of the 12th of April were you directed to proceed with the Unicorn to the attack of the enemy?

A. As near as I can recollect, it was at about half past two o'clock.

Q. Were the three ships of the enemy, that were on shore upon the Palles Shoal that day, and which afterwards got off, at any time in a position to be attacked; I mean from the depth of water round them, and other circumstances?

A. There were two ships afloat prior to the frigates going in, and the enemy's three-decker ashore and upright, with her broadside to the entrance to the anchorage-ground of the Isle D'Aix; the three enemy's ships on shore appeared to me not to be in a position to admit of an attack on them by any of the British ships.

Q. Was every exertion used according to your judgment and observation, by every ship and vessel sent in to the attack of the enemy?

A. To the best of my judgment every exertion was used by the British ships and vessels.

Q. Under all the circumstances of the wind and tide, did it appear to you, that on the morning of the 12th of April, when the enemy's ships were on shore, and the signal had been made, that half the fleet could destroy them, there was, on my

part, any neglect or unnecessary delay in taking effectual measures to destroy them?

A. I do not know of any neglect or unnecessary delay.

PRESIDENT—From the first attack on the enemy's ships, to the time of your leaving Basque Roads, was there, to the best of your judgment, every thing done that could be done, to effect their destruction?

A. I think there was. To the best of my recollection I left Basque Roads the 26th or 27th of April.

ADMIRAL YOUNG—Was the Unicorn anchored with the rest of the squadron on the 12th of April, on the edge of the Palles Shoal?

A. Yes, she was.

Q. Were the brig, sloops, and the gun-brigs advanced nearer to the enemy than the attacking squadron was?

A. To the best of my knowledge none of the brigs, excepting the Beagle, was in the advance of the British ships during the attack on the 12th. The Beagle was the only brig, and was under weigh during the time of the attack between the British frigates and the enemy. The Beagle continued under weigh between the enemy and the attacking frigates.

Q. Did the Beagle appear to you to be as far advanced towards the enemy as the depth of water would admit of her being?

A. Not having sounded any distance between the Unicorn and the enemy, I cannot say whether the depth of water would have admitted the Beagle to have closed more with the enemy.

Q. How much nearer to the enemy than the frigates do you suppose she was?

A. To the best of my judgment, three or four ships lengths.

Q. Did she anchor?

A. I did not observe her anchor at all on the afternoon of the 12th.

Q. Did she engage the enemy under weigh?

A. Yes, she did, and I believe continued so engaging until the general firing of the British squadron ceased.

PRESIDENT—Was the Beagle placed between the British ships and the ships of the enemy aground, being under sail, subject, at any time, in your apprehension, to receive any damage by the shot of the English ships?

A. Yes, I think she was; but I do not know that she received any damage from them.

ADMIRA YOUNG—Were you in Basque Roads at the time the Commander in Chief arrived there?

A. Yes. I was there from the day the Commander in Chief arrived, till the 26th or 27th of April.

Q. From the time of the Commander in Chief arriving in Basque Roads till the time of your leaving it, can you state any instance of neglect, misconduct, or inattention, to the public service in his proceedings?

A. I cannot. The Unicorn was the advanced frigate from the day of anchoring in Basque Roads until the afternoon of the 12th of April.

Admiral Sutton—Were you at anchor on the 13th and 14th?

A. In Basque Roads, on the morning of the 13th, I came out, and I continued at the anchorage in Basque Roads. We all came out, and I reported myself to Lord Gambier, and continued there till the 26th or 27th of April.

Q. Did you observe whether the brigs and small vessels, that had been directed in-shore for the purpose of annoying the enemy's ships that were aground, continued their exertions in the execution of these orders until the enemy's ships had removed entirely out of their reach?

A. For three or four successive days there was frequent firing upon the enemy's ships, from the brigs and the smaller vessels that were there. It might have been, more days there was frequently firing.

Lord Gambier—Did it not at times, during that period, blow so strong that the smaller vessels often times could not carry on any operations against the enemy?

A. In my opinion it did.

Captain GEORGE FRANCIS SEYMOUR, of His Majesty's Ship the Pallas, sworn.

Examined by Lord Gambier.

Q. What time in the afternoon of the 12th of April did you proceed in the Pallas to the attack of the enemy's ships?

A. About a quarter after two. I am not quite positive as to the time, but thereabouts.

Q. Do you remember seeing the position of the enemy's fleet on that morning; and whether there were any of them afloat at their anchorage?

A. Two ships were afloat—those of the Rear Admiral and Commodore.

Q. Do you recollect at what time those ships cut or slipped their cables, and ran up the Charente?

A. Between twelve and one o'clock, under topsails, jib, and foresail. I am confident about one. I have some doubt about the other, having her main-top-mast up.

Q. Do you recollect at what time the three enemy's ships that were aground on the Palles Shoal, and which afterwards got off, removed from that situation?

A. I do not, but I think it was the last quarter of flood.

Q. Was it after or before the two line-of-battle ships ran up?

A. I am not positive—I was occupied about my ship.

Lord Gambier—I have no further questions to propose to Captain Seymour.

Captain Seymour—Am I bound by the oath to relate every circumstance which comes within my knowledge, relating to the proceedings of the fleet?

President—If the questions that are asked you should not seem to embrace all the circumstances which you know respecting the matter to which it refers, you are bound still to relate them.

Captain Seymour—I know no other circumstance on this subject.

Admiral Young—When the ships of the line, and some of the frigates, left Aix Roads, did the Pallas go off with them?

A. She did not.

Q. On the morning of the 13th of April were there any of the enemy's ships which remained within reach of shot from the Pallas?

A. No, not by a very considerable distance.

Q. Was the Pallas then in a situation in which it was when she engaged the enemy on the 12th?

A. She was not. I had moved her the preceding evening into deeper water.

Q. Were any of them within gun-shot of the situation from which she removed?

A. No.

Q. Were any of them in a situation which would have admitted of their being destroyed by frigates and the smaller vessels that were then with the squadron?

A. The smaller vessels attacked the Ocean on the 13th, in the morning. I do not think the frigates could have accompanied them to the attack.

Q. Was the Ocean the only ship that was within reach of their attack?

A. The Ocean was the nearest ship. Circumstances afterwards proved that the Regulus, which was on shore under Fouras, could be approached by the smaller vessels.

Q. Were all the smaller vessels sent to attack the Ocean?

A. All those that remained in Aix Roads on the morning of the 13th.

Q. How long did they continue their attack on the 13th?

A. To the best of my recollection, till about four o'clock in the afternoon, when they worked up to the anchorage of the Imperieuse and Pallas.

Q. Do you know why they did not continue their attack longer?

A. They came back with the ebb-tide, which had ebbed considerably before they weighed.

Q. Did you understand that they returned on account of the shoalness of the water?

A. From the number of times the small vessels went in to the attack of the ships on shore in the river, I may be mistaken about the Etna bomb having grounded on the 13th; but I think her having done so occasioned the return of the vessels to the anchorage where the Imperieuse and Pallas were lying; the day closing in might be an additional reason for their returning.

Q. Was the Ocean, on the 14th, in the situation in which she was attacked on the 13th?

A. She was till four o'clock in the afternoon.

Q. Was she attacked again on the 14th?

A. No, she was not. The tide did not permit the vessels to go in before four o'clock.

Q. Did you, on the 14th, see the Imperieuse inform the Commander in Chief, by signal, that if allowed to remain he could destroy the enemy?

A. I did.

Q. Was any additional force sent into Aix Roads in consequence of that signal?

A. Several brigs came in after the 13th, but I do not recollect at what time, or whether after or before that signal.

Q. Had any plan been arranged or concerted between the Captains of the Imperieuse and yourself, for destroying the enemy's ships?

A. None. I heard Lord Cochrane express his opinion, that by throwing shells at the ships at spring-tides, towards high water, there was every prospect of preventing the enemy's getting off, as it would prevent their carrying out hawsers to heave off by.

Q. You have said that the ship under Fouras could be attacked. Were vessels sent to attack her?

A. There were.

Q. Were any shells thrown at the ships that were on shore?

A. A considerable number.

Q. Were all the bomb-vessels present employed on that service?

A. The Etna was employed whenever the weather permitted; and on the Thunder's arrival on the 18th, she also went in. For two or three days the Etna could not continue the bombardment, her ten-inch shells being all expended, and her thirteen-inch mortar having split.

Q. Did you perceive that the throwing of shells produced the effect that was hoped for from it?

A. On several days the wind affected the flight of the shells so much, that the proper expectation of their doing mischief was much disappointed.

Q. From the situation of the enemy's ships on the 13th and 14th, or any subsequent days, was it, at the time, your opinion, that they might be destroyed by frigates and smaller vessels?

A. I hoped that bombarding them at high water would have prevented their getting off. I did not think the going in of the frigates would have been attended with any good effect.

President—What are your reasons for believing that the going in of the frigates would have been attended with no good effect?

A. My reason for first supposing so, was the Etna grounding as she went in, and that from the shoalness of the water frigates could not approach sufficiently near, or remain long enough, to do any good.

Q. Upon the attack on the Ocean on the 13th, what number of vessels went in upon that occasion?

A. I think the Beagle, with three gun-brigs, and the Etna bomb.

Q. Were the bomb and the several vessels that went in upon the several attacks you have described, obliged, on going in and returning, to pass under the fire of the batteries in the Isle D'Aix?

A. They were: each vessel passing at a greater or smaller distance, in proportion to her size; the deep water lying near Isle D'Aix.

Q. It happening, from your situation on these occasions, that you could not fail to have observed the conduct of all the vessels of every description employed against the enemy—did it appear to you that the whole of the vessels so employed were conducted with every becoming zeal and judgment for the benefit of the public service?

Captain Seymour—From what period am I to give my answer?

President—From the time of your being sent in to attack the enemy, and your having remained there.

Captain Seymour—Without going back to the 11th?

President—No. I take it from your going in on the 12th, because then you became an immediate spectator. I wish for your opinion, whether all the vessels were conducted with the greatest zeal and propriety of conduct for the public service?

A. The whole of the commanding officers appeared to me to be actuated by the same spirit; and I saw nothing like failure of duty in any vessel whatever.

Admiral Young—Can you state any instance of neglect, misconduct, or inattention to the public service, in the proceedings of the Commander in Chief from the time of his anchoring in Basque Roads till the time of his leaving it?

A. I think myself a very incompetent judge of the Commander in Chief's conduct. I know no instance in which any of those terms can be applied. From what I afterwards saw, I think the ships might have floated in sooner; that they might have come in in the last half of the flood-tide.

Lord Gambier—Was that impression upon your mind at the time?

A. No, it was not, certainly—From the knowledge I subsequently gained from the proceedings of the ships, I think the line-of-battle ships would have floated in in the last half of the flood-tide.

President—How much sooner would that have been than the time they actually did go in?

A. At eleven o'clock.

Q. What time did the line-of-battle ships go in?

A. Within a short time after two o'clock.

Q. Is the Court to understand that you have formed this opinion from information you have obtained since the 12th of April, or that it was your opinion on that day?

A. It was formed from the depth of water we found in going in, and from seing the Revenge go out at a correspondent time of tide on the following day.

Q. From the time of the first attack upon the ships of the enemy until your departure from Basque Roads, which was on the 27th or 28th of April, was there, to the best of your judgment, every thing done that was practicable to be done for effecting the destruction of the enemy's ships?

A. Every thing.

ADMIRAL YOUNG—When you say the ships of the line would have floated in at eleven o'clock, do you mean to say that it would have been proper for the Commander in Chief to have sent them in at that time?

A. Two of the ships of the line of the enemy were anchored in a situation to annoy ships going in. At the time I possessed no information of the strength of the Isle D'Aix, or the depth of the water, to allow me to form a judgment.

Q. If I understood the intention of that observation, it was advanced as an instance of either neglect, misconduct, or inattention in the Commander in Chief; how then is it that you now say you were not qualified to form an opinion?

A. I particularly said that I did not consider it either neglect, misconduct, or inattention. I mention it as a point on which a difference of opinion might be entertained; the question was so general that I could not reconcile it to my mind not to mention it, it being a point that might be disputed.

ADMIRAL YOUNG—I think you must understand that it is your opinion the Court is asking, not the opinion of any other person with which the Court has nothing to do?

A. I myself doubt whether line-of-battle ships would have been successful or unsuccessful in doing good by going in.

PRESIDENT—Do you mean, by your answer, to say that there was water sufficient for the line-of-battle ships to have gone in at eleven o'clock; but of the expediency of such a measure you do not form any judgment?

A. I meant to say it is a point upon which the discretion of the Commander in Chief might be fairly used; it is impossible for me to foretel the event of such an attack, it depending so much upon fortuitous circumstances.

Q. Being upon the spot, and a spectator of the operations carrying on, and considering all the circumstances of the case, did you, at the time, think that the two line-of-battle ships should have been sent in at eleven o'clock?

A. There was an idea of fitting the Pallas as a fire-ship; my attention was entirely occupied with her. I have already stated that I formed my opinion that line-of-battle ships could go in from two circumstances which happened subsequently.

PRESIDENT—I wish Captain Seymour would be so good as

to say, in a short answer, what was his impression at the moment, being upon the spot, and seeing the proceedings and operations of the fleet; and having stated before that the line-of-battle ships might have found water enough to go in at eleven o'clock, I wish to propose this question: Did you, at the time when you made these observations, think that the line-of-battle ships *should* have gone in?

A. I cannot give an opinion upon that. I was not in possession of the Commander in Chief's information, and had formed no judgment, not having information that would allow me to form any judgment as to the propriety of it.

ADMIRAL YOUNG—This general question is not meant to subject the general conduct of a Commander in Chief to the opinions of all the officers serving under his command, because it cannot be supposed that all officers serving under his command can be competent to form opinions of his general conduct, but it is quite within the capacity of any officer serving under his command, to state a particular instance of misconduct; and if you think this, of the two ships not going in so early as you think they might have floated, is an instance of neglect or delay in the Commander in Chief, it is your duty so to state it, that we may enquire into it, and hear any other evidence upon it?

A. I have already stated that I cannot say it was misconduct. I state the fact, and leave the Court to judge.

ADMIRAL YOUNG—You state an opinion that the fleet would have floated in at eleven o'clock?

A. Yes, that there was water enough.

Q. Is that all you mean to say—that there would have been water enough for them to have floated in?

A. Yes; that is all I have said.

Q. When you say that the ships of the line would have floated in at eleven o'clock, do you mean to speak to the depth of water alone, without taking into consideration any other circumstances which would have prevented or impeded their getting in?

A. I confine myself to the meaning of the words—that there would have been water enough for the line-of-battle ships to have floated in—that is all I mean to say. The opposition they would have met with the Court have as much before them as I have. There were two sail of the line lying in the passage; and I was not acquainted with the state of the batteries on the Isle D'Aix.

ADMIRAL SUTTON—You have stated that the Imperieuse made a signal on the 14th—"If allowed to remain, can destroy the enemy."—Did it appear to you that the signal was pointed

to any particular operation which you observed at that moment practicable to be made upon the enemy's ships.

A. No; more to their general annoyance.

PRESIDENT—From what has occurred, does your Lordship wish to put any questions to Captain Seymour?

LORD GAMBIER—No; I do not think it at all necessary; I do not consider it of the least consequence.

Captain FRANCIS NEWCOMB, of His Majesty's Sloop the Beagle, sworn.

Examined by Lord Gambier.

Q. Were you sent in, in the Beagle, to the attack of the enemy's ships on the 12th of April in Aix Roads? And state what passed.

A. Being under weigh, on the 12th of April, and it being reported to me that a signal was made by the Commander in Chief—the frigates to go to the ship making signals of distress in such a quarter, I felt it my duty to proceed on after the Imperieuse to Aix Roads; the Aigle and other frigates, besides the Valiant and Revenge, following; conceiving it the intent of the Commander in Chief that I should so proceed, on having previously discovered the Etna bomb and other gun-brigs making sail for the anchorage, preceding the Imperieuse, and which I judged was from the directions they received from the Commander in Chief. I judged it prudent to reserve in preparation my bower anchor and cable, for any of the ships that might require it, concluding that there was a great probability that it might be required by either the line-of-battle ships or frigates. I caused my own stream cable and anchor to be ready with a spring to it, to make use of as a bower to bring up the sloop I command, the wind being then moderate enough to ride her by, and to facilitate my movements to wherever I should judge I should be required. I brought up in Aix Roads, with my stream anchor, on the larboard quarter of the Imperieuse, and without her, merely that I should not interrupt the anchorage of the line-of-battle ships and frigates that were close to me. The bomb and the gun-brigs were lying a little further to the westward of me. There were some shot fired in their direction, and towards me, from the Imperieuse. No signal whatever having been previously made for the direction of any of the vessels, I sent Lieutenant Price with a message to Lord Cochrane, to know if those shot fired were at the Isle of Oleron, or by mistake, or intentionally: if the latter, I felt very indignant at it. I brought up there, because I should not be in the way

of the frigates and line-of-battle ships; and I should have thought it a most injudicious step, had I placed my ship in such a situation so as to have prevented the services of a larger force: nor neither was there room between the Imperieuse and the Palles Shoal for any more than one, which situation the Indefatigable took up. Moreover, I explained that I had neither chart nor any person on board that had ever been there before; the tide then falling. And had I touched upon the Palles, the Beagle must inevitably have been lost.—When I sent the officer away with this message, I was prepared to weigh my anchor, in the event of any situation being pointed out. A signal from the Imperieuse was made to close. The anchor was upon my bowers. In about two or three minutes I shot the vessel in between the Indefatigable and the Jean Bart, who was previously cast away on the Palles Shoal, and brought up with my stream a second time, and commenced firing upon the enemy, the Ville de Varsovie more particularly. This continued for about a quarter of an hour, or twenty minutes, as near as I can recollect. Finding my rudder almost coming in contact with the wreck of the Jean Bart, and being too near the Indefatigable, so much so, that my mast and my rigging were in danger from her fire, I got a second time under weigh, and kept so until six o'clock that night with my top-sails, jib, and spanker, to annoy the enemy in such situations as I thought I could act best. My Second Lieutenant was away from the time I sent the message, to sound about the Palles and the entrance of the Charente; and, observing that the Calcutta was abandoned, went on board of her, at the same time that another boat, which I understood to be the Imperieuse's boat, went on board to take possession of her. Seeing an opportunity to annoy the Aquilon, I made sail for her stern within pistol-shot, and commenced firing upon her, she returning it, carrying away many of my ropes and all my larboard main-top-mast rigging: having fired upon her for about ten minutes from my starboard broadside, she struck her colours. I lowered a boat down, to send an officer on board to take possession of her, first tacking or wearing my head off. She again opened her fire, and I was obliged to return it also. I kept my main-top-sail spilling, to preserve my situation close to her. Perceiving all her boats manned, and the ship's company abandon her, I concluded that her firing, after she had struck, was from accident, and not by design. I then stood out, and back again, as occasion might require, being then in seventeen or eighteen feet water, and the tide fast falling: and as no more annoyance could be given to any more of the enemy's ships, namely, those upon the Palles Shoal, and which I afterwards learnt to be the Calcutta, Tonnere, Ville de Varsovie, and Aquilon, I then recollect (seeing nothing more to be done, in my opinion) to have recommended to some of the

frigates to trip their anchors and shoot a little further out, to prevent their grounding at low water, telling them that I found more water a little further to the W. S.W. or the S.W. About six, or half-past, (I will not be certain which) I brought up my ship with the bower in about five fathoms; and nothing being required of the Beagle, I caused the ship's company to get their dinner. I went into the boats afterwards, and staid till twelve o'clock that night engaged in the service.

PRESIDENT—Were you not subject to annoyance from the shot of the English ships while you lay so close to the Aquilon, as you have before described?

A. My situation was such, that I could stand in and annoy the Aquilon without the English ships giving her such annoyance. The Ville de Varsovie had previously yielded, and was directly in a line, or rather in the wake of the Aquilon, so as to prevent most of our ships from acting against the Aquilon without firing into the Ville de Varsovie.

ADMIRAL YOUNG—Was the Beagle on the Palles Shoal at high water?

A. I was not upon it at high water, but I dare say about an hour and an half after it.

Q. At the time you were there, were any of the ships that afterwards escaped up the Charente within reach of being destroyed by your shot?

A. No.

Q. Could you, as far as your information of the depth of water enabled you to judge, have got near enough to those ships to have destroyed them?

A. No.

Q. Were the gun-brigs as far advanced towards the enemy's ships on the 12th as the Beagle?

A. No.

Q. Do you know of any reason which prevented them?

A. No, I do not.

Q. What water does the Beagle draw?

A. Nearly about fifteen feet abaft, about twelve feet and a half forward, as nearly as I can recollect; sometimes more, sometimes less.

Q. Do you know what water the gun-brigs draw?

A. To the best of my recollection, from the reports I have been accustomed to receive from them, about ten or eleven feet.

Q. Could they have advanced towards the enemy's ships nearer than you were, without being exposed to the fire of the British squadron?

A. Had they so done they would have retarded the service, and subjected themselves to the fire of our own ships.

Q. By what means would they have retarded the service?

A. Being subject to receive the fire of our ships instead of the enemy receiving it.

Q. How long did the Beagle remain in Aix Roads?

A. From the 12th of April to the day I was recalled by the Commander in Chief, which was the 17th.

Q. Was there any time in which frigates and smaller vessels might have destroyed the enemy's ships, which were not destroyed on the 12th?

A. On the morning of the 18th Lord Cochrane made arrangements to that effect, by sending the Beagle on the larboard quarter of the Ocean; the Etna bomb, with the gun-brigs, three or four in number, near the wrecks of the enemy's ships the Aquilon and Ville de Varsovie. About ten o'clock, I proceeded in towards the enemy, the Vice-Admiral's ship, another seventy-four, and a French frigate, situated at the mouth of the Charente. I brought up, when on the Ocean's quarter, in sixteen feet water, and engaged her from the hour of eleven until four o'clock, she returning the fire from her stern and quarter, as well as the other line-of-battle ship, as also the frigate and shells occasionally from the Isle D'Aix, and many of the splinters fell upon deck. During these five hours my standing and running rigging were very much injured; my lower yard was shot through, and my main-topmast, and several shot in my hull. Lord Cochrane, before I came into the anchorage, observed, he meant to bring in his frigate: this, however, I recommended him not to do, judging there was not water enough, and the wind blowing strong directly to the Charente, with the tide running two and a half knots or thereabouts. Why I gave this advice was, because I was then furnished with what I considered to be a tolerably good chart by Lord Cochrane, a French chart. During the time I was in action, finding the enemy bring so many guns to bear on all the vessels, I caused the signal to be made to the Imperieuse, the telegraph signal I think—my main-topmast gone.

Admiral Young—Is it necessary to go into this detail?

A. It all leads to it: this will lead, I fancy, to the original question put, which is, I understand, whether any further ships could be destroyed. The next signal was—my main-yard gone: another signal—that the enemy's ships were superior to those in action, and inferior to the fleet. Judging from lying in Basque Roads, when I had three fathoms and a half of water, I made the telegraph signal to the Imperieuse that frigates might then act with advantage. I was induced to make

this signal, because Lord Cochrane had himself suggested the idea of his coming in; but at the same time fully convinced that had they so come in, they could not have remained in that situation more than two hours, without danger to themselves; this, however, might have been thought too hazardous to attempt, from the depth of water. I sent a message by the Second Lieutenant to Lord Cochrane, to signify that I should want powder, as I had then only three barrels left besides the cartridges that were filled, and also to observe that I should take the ground at low water, were I not to come out at about four o'clock. The answer was, I should come out at my own discretion. Abut half-past three, or near four, the enemy's three-decker, as well as the two-decker, prepared to push farther up the Charente, it then being high water; and I weighed at about four o'clock, the tide then falling, and turned up to my former anchorage, under a heavy fire from the batteries on the Isle of Aix. At about six o'clock, as near as I can recollect, I brought up with my bower at the anchorage I had left.

Q. By the damage you observed the enemy's ships to have sustained from the attack you have now detailed, was it your opinion that a repetition of such attack would have destroyed them, or would have prevented their getting up the Charente?

A. By no means; because vessels of the description that made the attack that I have now detailed could not, with any propriety, advance farther; but had there been a few bomb-vessels, with some gun-boats, it is very probable that the enemy might have been more annoyed on the day after; but this class of vessels was not with us.

Q. What do you mean by not with you?

A. With the squadron: they were not with the British fleet.

Q. Were you in Basque Roads the whole of the time the Commander in Chief was there?

A. No; I arrived on the 11th.

Q. Did you remain till he left it?

A. No; I left it on the 18th.

Q. Can you state any instance of neglect, misconduct, or inattention in the proceedings of the Commander in Chief during that period?

A. None; save and except had the Commander in Chief thought proper, from his situation, to have sent vessels in earlier than they were sent, although there might be a great risk in so doing, there is a possibility of annoying the enemy more than they were annoyed; but our ships must be sub-

jected nevertheless not only to the fire of the enemy's ships that remained at anchor, but also to the fire from the batteries in Isle D'Aix. I cannot presume to place my judgment in competition with that of the Commander in Chief, how far it was proper to have sent ships in earlier than they were sent in.

PRESIDENT—Under the circumstances of the annoyance which the ships earlier sent in would have been subject to from the two French ships remaining at anchor, and from the batteries upon Isle D'Aix, and considering the state of the wind at the time, would you, had you been the Commander in-Chief, have sent the ships earlier in to attack those of the enemy on shore than they were sent in?

A. The risk, I think, as the wind was, and the tide, rather too great, and the want of a perfect knowledge of the anchorage further to the southward between the Palles and Oleron.

Q. If the British ships had been sent earlier in, would they have been subject to annoyance from the French ship the Ocean, as well as the two French ships still remaining at anchor, and the batteries on the Isle D'Aix?

A. I think they would.

Q. Suppose the English ships had been sent in at eleven o'clock in the forenoon of the 12th, or at noon on that day, and had received material damage from those annoyances you have described, how long must they have remained under the fire of the French ships and batteries, before they could have come again out of the Road of Aix?

A. For a considerable time; for it was my opinion, from the short knowledge I had of the place, that large ships, as the wind then was, must have backed and filled out with a strong ebb; and even then they would be still subject to the fire from the Isle D'Aix, as well as the shells from the Island of Oleron; and if any unfortunate chance shot had crippled her masts and yards, there was every probability of her being destroyed altogether. I suggested the idea to the Captain of one of the line-of-battle ships, I think Captain Bligh, that if this happened, they must back and fall off.

Q. From the first attack on the ships of the enemy, to the time of your leaving Basque Road, was there, in your judgment, every thing done that was practicable to be done to destroy the enemy's ships?

A. I think there was, considering all the circumstances I have stated.

Lieut. HOCKINGS, of His Majesty's Ship the Caledonia, called in again.

Examined by Lord Gambier.

Q. At what time did the enemy's two ships of the line, which remained at anchor on the 12th of April, slip or cut and run towards the Charente?

A. The Cassard and Fourdroyant were the two ships which slipped: the Cassard at ten minutes past one, and the Fourdroyant at about twenty minutes past one.

Q. Are you positive as to those?

A. I am positive as to those ships. I recollect the time perfectly well, because I had my watch in my hand at the time.

Q. When did the three grounded ships warp off the Palles Shoal?

A. About the same time the three-decker hauled off, about two o'clock; the others between one and two.

Captain ALEXANDER ROBERT KERR, of His Majesty's Ship the Revenge, called again.

Examined by Lord Gambier.

Q. Did you, on the evening of the 12th of April, when the line-of-battle ships were in a state of considerable danger, receive from Lord Cochrane *himself* any information of a secure anchorage to the southward or westward of where the Revenge was for line-of-battle ships; or did you receive such communication from his Lordship through any other of the Captains of the line-of-battle ships or other persons?

A. The only communication I had with Lord Cochrane was through the Master of the Revenge, who was sent to sound immediately on that ship's anchoring; in passing the Imperieuse he asked Lord Cochrane.

JUDGE ADVOCATE—You were not there?

A. No; I was not.

JUDGE ADVOCATE—Then the evidence cannot be taken from Captain Kerr. If it is necessary to produce it the Master of the Revenge must be called.

LORD GAMBIER—It was not in your hearing?

A. No; he reported it officially to me on his return. He was sent to sound on the ship's anchoring.

ADMIRAL STANHOPE—We can receive official reports.

JUDGE ADVOCATE—I really think official reports are not evidence.

ADMIRAL STANHOPE—When a Captain is below, official report is the only way in which any thing can come to his knowledge.

JUDGE ADVOCATE—Being of opinion that it is not evidence, I felt it necessary to object to its being taken.

LORD GAMBIER—Perhaps Captain Kerr can answer without referring to this?

A. I felt the situation of the ship to be dangerous, and I sent him to sound round. On his return, he told me that Lord Cochrane had informed him he did not know, but that he believed there was water to windward.

Q. To windward was to the northward?

A. Yes; under the batteries.

PRESIDENT—From every opportunity you had of noticing the bomb, the brig, sloops of war, and gun-brigs upon all the services on which they were employed against the enemy, did you see any instance of misconduct of any kind whatever in any of those vessels?

A. None whatever. The Beagle I had an opportunity particularly of observing; she received the fire of the Aquilon.

ADMIRAL DUCKWOTTH—From the state in which you left the enemy's ships on the morning of the 13th, when you came out of the Road of Aix, and your observation between that and the afternoon of the 14th, do you consider that by any other exertion than was used by the Commander in Chief more ships of the enemy could have been destroyed than were destroyed?

A. No, certainly not.

Rear-Admiral the Honourable ROBERT STOPFORD called in again.

Examined by Lord Gambier.

Q. What information did you receive, before you left Basque Roads, of the state of the enemy's ships which escaped up the Charente after the attack on the 12th of April, and state it?

A. The information is contained in this paper, which is a letter I transmitted to the Commander in Chief at the time of receiving the intelligence. With the permission of the Court I will read that part which relates to this:—The Tounelle, Regulus, and Patriot, each of 74 guns, so damaged as to be unfit for sea, reported to be cut down for mortar vessels. The

Ocean, 120 guns, hove all her guns overboard, except 26 or 30; provisions and stores overboard; anchors and cables cut away. The Fourdroyant, 80 guns, only 26 guns saved; provisions and stores hove over board; anchors and cables cut away. The Cassard, of 80 guns, damaged, but to be repaired, and is preparing for dock. The Jemappe, of 74 guns, received no damage, having hit the passage the first night and gone up to Rochefort.

PRESIDENT—Is it material to insert how this information was obtained: I know no names ought to be mentioned?

A. The information was received by a seaman belonging to the French ship Fourdroyant, who called himself an American, who deserted to the squadron in Basque Roads the 22d of May.

LORD GAMBIER—Mr. President, Arrived at the termination of my defence, it remains for me to express my acknowledgements to this Honourable Court for the patient attention with which it has honoured me.—The space of time comprehended in the charge, and more particularly the evidence of the principal (I might say the only) witness on the part of the prosecution, have led me into details more diffuse and extensive than I could have apprehended.

When I first entered this Court, it was with a mind perfectly at rest as to the issue of my Trial; confident of having exerted myself to the utmost for the honour and advantage of my King and Country: the result of these Proceedings has confirmed me in this state of mind: I now retire, committing to your protection my professional reputation and my honour, in the full persuasion that I shall receive, at your hands, ample retribution for the aspersions on my character, which have led to this inquiry.

JUDGE ADVOCATE—This of course will be entered upon the minutes.

PRESIDENT—I do not know that, in this stage, the insertion of this paper will be quite proper; because the Court have an idea, for their own satisfaction, to call back one or two witnesses who have been called, and also some who have not been called.

JUDGE ADVOCATE—I should think, as Lord Gambier has finished his defence, it will come very properly now.

ADMIRAL YOUNG—Perhaps it will not come properly now, for this reason; that Lord Gambier, having desired that the whole of his conduct, from the time of his arrival in Basque Roads till he left it, should be inquired into, it appears to be the opinion of the Court that every Captain should be called; that any Captain, who can state an instance of neglect or misconduct, should have an opportunity to do so: it may possibly happen that some Captain may state some instance of the kind, in that case Lord Gambier will still continue on his defence.

LORD GAMBIER—I am very desirous that every inquiry should be made in the fullest manner.

ADMIRAL YOUNG—We have no doubt of its being your wish: but it is our absolute duty*.

Captain GEORGE WOLFE, of His Majesty's Ship L'Aigle, called in again.

PRESIDENT—When you joined the Imperieuse on the 14th of April, for the purpose of relieving that ship and conducting the further operations of the vessels against the enemy, what communication had you with the Captain of the Imperieuse?

A. Shortly after we anchored, Lord Cochrane came on board, and, after saying that I had come to relieve him, ——

PRESIDENT—The Court is not desirous of hearing any conversation that passed which does not relate to the public service.

A. I asked him what he would recommend with the vessels under my orders for the further destruction of the enemy's ships? He told me that the large mortar on board the Etna was burst, and the only thing we had to do was to bomb them as long as the shells of the other mortar lasted; that if an opportunity offered of sending the fire-vessels it should be done by day-light, as many of the officers of the fire-vessels had made such a bad business of it on the night that the fire-vessels acted. I then went on board. Shortly afterwards, on his leaving the ship, feeling the great responsibility I had in the command in that place, I asked him, as he was getting under weigh, whether there was any thing else he could suggest for the destruction of the enemy? I think, to the best of my recollection, he said nothing more than to bomb them while the shells last; and I think they were all expended that night.

* The paper was the next day allowed to be continued on the minutes in this place.

Q. Had you fire-ships with you?

A. There were four.

Q. Was any attempt made to employ those fire-ships against the ships of the enemy?

A. None; as I did not think it prudent so to do, from the impracticability of their getting at the French ships from want of water, as the tides would not serve only at day-light; next that they were so well protected by the batteries, numerous armed vessels, boats, and men, that were doing all that lay in their power to clear them and remove them when the tides made.

Q. Lord Cochrane having remarked to you that some of the fire-ships, upon the first attack upon the enemy, had not been well managed, do you know of any particular fire-ship, or fire-ships, that were improperly conducted on the evening of the 11th of April?

A. I cannot particularize those that were badly managed; the ship that passed between us and the Island of Oleron, and got on shore there, was the only one I particularly noticed.

Q. Do you know her name?

A. I do not; I hailed five that came very near us. Our own ship was very nearly burnt by two that were badly managed, and which were on fire as they passed us. I could only learn the names of the Officers of two of the fire-ships that behaved well: they did not fire their ships till after they had passed me. Five behaved very well: one of them was commanded by Captain Newcomb, who desired me to remember he had passed us. Lieutenant Cooksley of the Gibraltar, was another who begged I would keep my eye on him, as he should not fire his vessel till he was amongst them, meaning among the enemy. I did, and saw him run on board of a two-decked ship of the enemy. From the fresh breeze of wind, I could not hear the names of the Officers commanding the others; but one, who had set fire to his vessel, came on board of me afterwards, and requested that I would bear testimony that he had acted properly: I do not recollect his name.

Q. The two of which you entertained apprehensions that they would burn you, were on fire at that time?

A. Yes; they were.

Q. Did you see the explosion-vessel blow up?

A. Yes.

Q. How was she situated in respect of L'Aigle?

A. We lay about two cables length from the Imperieuse; the explosion-vessel, I think, went from the Imperieuse towards the enemy's anchorage: when she exploded I think she must be abreast of the Isle D'Aix.

Q. Were any of the fire-ships set fire to before the explosion vessel blew up?

A. None.

Q. From every opportunity you had of observing the proceedings of the bomb, the sloops of war, and the gun-brigs; did it appear to you that any of these vessels were in any instance whatever improperly conducted?

A. I do not remember any such thing: I think if there had I should have seen it.

Q. In short, you mean to say you saw no misconduct in any of those vessels?

A. None.

Captain PULTENEY MALCOLM, of His Majesty's Ship the Donegal, sworn.

PRESIDENT—Were you in Basque Roads with the Commander in Chief from the 11th of April to the 29th?

A. I was in Basque Roads, but sailed on the 26th.

Q. From the first attack on the ships of the enemy, on the evening of the 11th of April, to the time of your leaving Basque Roads, was every thing (according to the best of your judgment) done that could be done to effect their destruction?

CAPTAIN MALCOLM—Shall I state the circumstances as they appeared to me?

ADMIRAL YOUNG—If any thing appears to you to have been improper, that of course you must state, otherwise a short answer to the question will be sufficient.

CAPTAIN MALCOLM—I should wish to state the circumstances, whether favourable or unfavourable, as the oath requires.

PRESIDENT—Certainly. Do so.

A. On the morning of the 12th of April, when a great part of the enemy's ships were seen on shore, the tide was ebbing. I think it was low water about eight o'clock. In my opinion it would have been highly imprudent to have ordered in any of the large ships to attack the enemy until, at least, half flood, and because I had always understood that the anchorage in Aix Roads, in deep water for large ships, was very confined. It would also have been imprudent to have attacked them by frigates at that time, as two of the enemy's ships of the line were anchored in a situation to have brought their broadsides upon them. When those ships quitted their stations, there then was no obstacle to prevent the small ships from going in,

by which I mean frigates, or even seventy-fours, if they had been light, but the fire from the Isle D'Aix, which they could nearly avoid by keeping near the Boyart. About the time that the two ships that were afloat quitted their anchorage the bomb went in, protected by the gun-brigs. I think that was about one, or a little after one. The ships' companies had not dined. I should remark that our ships of the line were very deep, each having above six months' provisions, and having cleared the transports that were prepared for fire-ships of their water and provisions.

Adjourned to to-morrow.

EIGHTH DAY,

Thursday, August 3, 1809.

Captain ALEXANDER ROBERT KERR called in again.

President—It is understood that you imagined the Court had stopped you when you had something material to add to your evidence?

A. I have only to say as to the Master's communication with Lord Cochrane, that I sent him to sound. He applied to his Lordship to know whether he knew of a depth of water to place the ship; and he said he did not know; he believed up to windward.

Q. We understood that you had something to add respecting the damage to your ship?

A. That is known to the Commander in Chief.

Q. In your way out from Aix Road to join the squadron in Basque Road, did your ship sustain any damage from the batteries of the enemy, whether from the batteries of Oleron, or those of the Isle D'Aix, or both of them?

A. She was struck from the batteries on Isle D'Aix on her passage out on the 13th, and the shells from Oleron were passing over her at the same time. It was only one shot between wind and water under the main chains which struck her; the loss was on the day before.

Q. Were you coming off with a leading wind?

A. About a point free. We were going about six knots through the water.

Q. What damage did you receive on the 12th?

A. The bowsprit was severely wounded; great part of the running rigging and sails cut to pieces; five planks of the quarter-deck cut through, and the quarter-deck beam entirely carried away, and a number of shots in different parts of the hull; three men killed and fifteen wounded, two of which afterwards died.

Q. Can you say whether your ship received those damages from the enemy's ships with which you were engaged, or from the enemy's batteries on shore?

A. The damage in the hull and the killed and wounded were from the batteries in the Isle D'Aix entirely; part of the running rigging from the Aquilon and Varsovie.

Q. Will your Lordship ask any questions of Captain Kerr?

LORD GAMBIER—I would just ask Captain Kerr whether, on his coming off from Isle D'Aix Roads, he kept in mid-channel, or as near as he could to the Boyart Shoal?

A. As close to the Boyart as possible. I bore up for the end of it. I came out on the larboard tack.

Q. Did Lord Cochrane ever send to inform you that there was a safe anchorage to the southward?

A. No.

Captain PULTENEY MALCOLM, of the Donegal, called in again.

PRESIDENT—Did you observe the enemy's three decker on shore?

A. Yes.

Q. Was she in a situation on the morning of the 12th to have done any mischief to any ships that had been sent in prior to the removal of the two French ships that remained at anchor, as well as what might have occurred from the fire of those two ships?

A. Till about noon she was heeling considerably, and appeared to me to be heaving her guns overboard: when she righted, she could have annoyed ships coming in.

Q. At what time did this three-decker remove from the situation where you saw her on shore heeling?

A. I cannot speak exactly to the time, but I should suppose about two o'clock. I cannot say whether it was before or after two o'clock, as I took no note of time. I should suppose it was before, but I cannot say. I was absent from my ship at the time, on board the Pallas.

Q. Did the other French ships, which were on shore upon

the Palles, and afterwards got off into the entrance of the Charente, do so about the time that the three-decker did?

A. Yes.

Q. Did any of the enemy's ships, that got on shore upon the Palles, on the night of the 11th of April, get off and escape, except those that have already mentioned the three-decker and the others that got off afterwards?

A. All the ships got off.

Q. You say the three-decker moved somewhere about two o'clock; there were others that were on shore on the night of the 11th?

A. Yes.

Q. Were those all that got off; did any get off after that, and get into the Charente?

A. No, none; they all got off, except those that were destroyed.

Q. And that was about the time that the three-decker got off?

A. Yes; within half an hour one of another.

Q. You have stated that, if ships had been sent in to attack the enemy before the two ships that were at anchor removed, they would have been subject to the fire of those two ships; and you have also said, that after the three-decker righted about noon, she also would have annoyed the ships so sent in: are you then of opinion that it would have been proper to have sent any ships in, while the two ships that were at anchor and the three-decker continued in those situations, considering also that the ships sent in would have been likewise subject to the fire from the batteries in the Isle D'Aix, and considering the state and direction of the wind at that time?

A. I think that ships on no account could, with propriety, have been sent in to attack the enemy till, at least, half flood, which was about noon; and that sending them in afterwards while the enemy remained upon the defensive would have been attended with very considerable risk, because, had they been disabled with the wind as it was, they could not have come out, but must have gone to the mouth of the Marmissour Passage for anchorage.

Q. That is a passage between the Palles and the Boyart?

A. Yes; which was ill understood, but where I had been led to believe there was anchorage for a few large ships.

Q. You have stated it to be your opinion that half flood was about noon, and that the enemy's ships got off at about two P.M. and you have, in the answer to the preceding question, stated that any ships sent in, previous to the removal of the

French ships that got off, would be liable to considerable annoyance from them as well as the Isle D'Aix; would you then have sent ships in, before the two ships were removed and the three-decker got off?

A. Had it appeared to me that there was no other chance of destroying those ships but by such an attack, I certainly think it ought to have been made; but it was understood that they must all again ground in the mouth of the Charente, where it was the received opinion they could be attacked by bombs, gun-vessels, and fire-ships again, without risk; bombs particularly: and had there been a reserve of fire-ships, I think some of them would have been destroyed on the flood tide of the 12th. There were fire-ships prepared with all expedition, but they were too late.

Q. Do you remember at what time of the day on the 12th ships were sent in to destroy them?

A. I cannot speak to the time. I was out of my ship on duty, and took no notes.

Q. Upon the whole, are you of opinion that, of all the French ships which got ashore upon the Palles on the night of the 11th of April, any more of them could have been destroyed than were destroyed, had the British ships been earlier sent in on the 12th of April to attack them?

A. Had they been attacked by the British ships, in my opinion they could not have been warped off from the shore, as it was necessary so to do, to lay out anchors to heave them off. Those that were not aground had always the option of running further up the Charente: but it should be understood it must have been at the risk of our fleet, as I have already mentioned in a former answer.

Q. It appears that the two ships of the enemy which remained afloat made sail towards the Charente about two o'clock in the afternoon, and that the three-decker and the other ships aground upon the Palles got off about the same time?

A. I think, upon recollection, it must have been nearer one o'clock than two when the first ship went away. The ships differed very much in their time that day. I should suppose it was considerably before two. I was on board the Pallas when the first ship went away.

Q. Then I will alter the question.—It appears that the two ships of the enemy which remained afloat made sail towards the Charente considerably before two o'clock in the afternoon, and the three decker and the other ships aground upon the Palles got off about the same time, or soon afterwards; at what time, previous to that period, would you, had you commanded the British fleet, have sent in ships to attack the enemy's ships on shore?

A The moment that the two ships quitted their defensive position, the risk was then small of sending ships, and, of course, I would have sent them in instantly. The only thing I am in doubt about is the time. It was between the hours of one and two o'clock. Nearly about that time the bombs and brigs were sent in; soon after that time.

Q. Have you a recollection how soon after the bomb and brigs were sent in, the other ships were ready?

A. The Imperieuse and Beagle very soon followed. I should suppose in about a quarter of an hour or twenty minutes the other ships' signals were made.

Q. What other ships?

A. I believe all the frigates, and the Valiant and Revenge, perhaps in less than that. The reason those ships did not join the Imperieuse so soon as might be expected was, that the wind failed, and the tide was no longer in their favour.

Q. As the bomb and brigs went in to attack the enemy soon after the time that you think was proper for the occasion, that the Imperieuse followed, and that in about twenty minutes after, or less, the Revenge, Valiant, and other vessels were sent in on the same service; what portion of time was there, in your judgment, which might be termed a delay in the Commander in Chief?

A. I paid very little attention to it. Certainly, from the time that the two ships quitted the defensive position till ships were sent in by signal to attack the enemy, was the only time that can possibly be called delay.

Q. What portion of time did there elapse, which could in any shape whatever be called delay in the Commander in Chief, in your judgment?

A. I should not suppose above half an hour; less than an hour certainly. But from the moment those ships quitted the defensive till they were sent in appeared to me lost time. It will be seen by the log; I cannot speak as to the time.

Admiral Young—Do you mean by the Marmissour Passage the anchorage that was taken up by the Imperieuse and the Pallas on the evening of the 12th of April?

A. Yes.

Q. Did you know that anchorage so well as to risk the taking a line-of-battle ship into it?

A. It would have been a risk to have taken a line-of-battle ship into it with the knowledge I possessed, or which any of us, to the best of my knowledge, possessed. That was the risk of the undertaking, particularly if the ships were disabled. I do not believe any of the Pilots ever had been there in large ships.

Q. Do you know at what time of the tide ships could be carried there?

A. That depends upon the draft of water; for our line-of-battle ships differed very much in their draft of water.

Q. Take the lightest of the line-of-battle ships?

A. I considered it half flood.

Q. If ships had been disabled in their masts and yards, after having advanced to the attack of the enemy in Aix Road, as the wind was on the 12th of April, with the flood tide running, would they have been able to have weathered the end of the Palles Shoal to have got into that anchorage?

A. At slack tide I should suppose they would, but not when the tide was running a strong flood.

Q. If they had been disabled before slack tide, where could they then have gone?

A. They must have remained till slack tide, and continued the action. They must have risked that: that was the great risk.

PRESIDENT—Was there, in your judgment, every practicable effort made to destroy the ships of the enemy that got into the entrance of the Charente?

A. I was not in the Road of Aix, but I am certain that the Commander in Chief sent every vessel in that could tend to that purpose, and assist in their destruction.

ADMIRAL STANHOPE—As you say you were not in Aix Road, how do you come by your information as to the depth of water there?

A. I have been in Aix Roads repeatedly since, after the ships were all gone up; and I have had information from different pilots at different times, having been a considerable time upon that station.

Q. Have you taken any survey yourself of the place, or do you judge from the French chart, meaning the Neptune Francoise?

A. I judged before the attack from the charts, and information I had received from pilots.

Q. When did you consult the pilots to receive that information?

A. I had been upon that station on the blockade of Rochefort for upwards of two years, under different commanding officers, and had endeavoured to make myself master of every part of the navigation of it, from pilots and people I had fallen in with.

Q. Where were you when the attack was made on the night that the fire-ships were sent in?

A. On board my own ship, the Donegal, in Basque Roads.

Q. Where were you on the 12th?

A. Mostly on board my own ship, but I was on board different ships, all in Basque Roads. I was on board the Commander in Chief's in the course of the day, and on board the Pallas about one o'clock.

Q. As you have stated in your evidence that, in your opinion, there was not any obstacle to prevent the small ships, frigates, and some ships of the line, had they been lightened from going in, had they kept close to the Boyart Shoal, do you speak of your knowledge at that time?

A. Yes; my knowledge, as described before. I had no other means of acquiring knowledge: it was not certain knowledge.

Q. As you were on board the Caledonia, did you make this known to the Commander in Chief, that you were of opinion that, by keeping close to the Boyart Shoal, the ships might have gone, provided they had thrown all the stores and provisions overboard?

A. I do not know that I mentioned this to the Commander in Chief. The charts shewed it. The difficulty occurred in getting to the other anchorage under the battery. Every one knew there was an anchorage. The difficulty was in going out from the batteries.

Q. To what draft of water do you think the line-of-battle ships ought to have been lightened to go in there, by getting rid of such portion of provisions and water as they might have dispensed with, leaving some small portion for the men?

A. If they had been lightened to twenty-two feet: every ship there was drawing more than twenty-two feet; that is only in reference to their being caught in shoal water, where a foot became of great consequence.

Q. How did you propose to lighten them?

A. That must have rested with the Commander in Chief. I mentioned before that they were thus deep in consequence of having cleared the transports.

Q. When you propose a thing, it must be supposed that you have some plan in your mind to remove the difficulty?

A. If it had been thought absolutely necessary, the provisions and water should have been thrown overboard, or taken into another ship. I only mean to say it was a greater risk sending in ships heavy than when light, where there might be shoal water.

Q. What was the greatest depth of water you expected to

find at the distance the line-of-battle ships were to pass near the Boyart Shoal?

A. That would depend upon the distance at which they went. We always understood five or six fathoms were enough for the ship. If you went two hundred yards, one way or other, the difference is very considerable. The large ships must necessarily have passed within long shot of the batteries, and it would not have been prudent to have bordered too near upon the shoal.

Q. Is the Court to understand that your opinion relative to the depth of water in Aix Road, has been gained by the Neptune Francoise, communication with French pilots, and no other subsequent information than what you have already stated?

A. I have stated exactly how I gained my information; when I was in there, of course I consulted all the people who were there; I had no other means of gaining my information.

ADMIRAL YOUNG—You were on board the Pallas?

A. Yes; when the ships first went in.

Q. Was that during the time of their being engaged with the enemy?

A. The Pallas did not go in with the other frigates; she went in very late; I was on board, speaking to Captain Seymour, when the first ship began to sail.

PRESIDENT—Does your Lordship wish to propose any questions?

LORD GAMBIER—I have no questions to put to Captain Malcolm. May I beg the favour to have the evidence of Captain Malcolm read over before any other witness is called?

PRESIDENT—Certainly.

(Captain Malcolm's evidence was read over.)

ADMIRAL YOUNG—In consequence of the reading of that evidence, I should wish Captain Malcolm to be called in again.

(Captain Malcolm called in again.)

ADMIRAL YOUNG—You have stated in your evidence that if the enemy's ships had been attacked sooner, you think that they could not have warped off their ships from the Shoal, because it required the carrying out hawsers?

A. Yes.

Q. Do you know whether any of the ships that did warp off were at any time within gun-shot of the ships which went in to attack them?

A. I can only speak from hearsay as to that—I do not know it—they had all shifted their births, and got further up, when our ships got in.

Q. Do you mean that they had shifted their births between the time at which our ships were sent in, and the time at which you think they might have been sent in?

A. Yes: when I mention they might have been sent in, I mean with great risk to our ships, of which the Commander in Chief was the best judge.

Q. Do you recollect which of the enemy's ships were so moved?

A. Two got up the Charente; all the rest grounded again on the bar at the mouth of the river: we had various reports of their names; and I know we differed very much which was which?

Q. At what time did they move?

A. Between the hours of one and two—I am sure it was between the hours of one and two.

Captain GEORGE BURLTON, of His Majesty's Ship the Resolution, sworn.

PRESIDENT—Were you in Basque Roads on the 11th of April, and when did you quit it?

A. I went in with the Commander in Chief, and quitted it about the 26th of April.

Q. From the first attack upon the ships of the enemy on the evening of the 11th of April, to the time of your leaving Basque Roads (according to your judgment), was every thing done that could be done to effect the destruction of the enemy's ships?

A. I think there was.

ADMIRAL YOUNG—From the time of the Commander in Chief's arrival in Basque Road, to the time of your quitting it, can you state any instance of neglect, misconduct, or inattention to the public service, in the proceedings of the Commander in Chief?

A. I know of none.

PRESIDENT—Lord Gambier, do you wish to ask any question of Captain Burlton?

LORD GAMBIER—No, Sir.

Captain HENRY LIDGEBIRD BALL, of his Majesty's Ship the Gibraltar, sworn.

PRESIDENT—When did you go into Basque Roads, and when did you quit it?

A. On the 25th of March, I believe, and left it, with the Hero, on the 21st of April.

Q. From the first attack upon the ships of the enemy, on the evening of the 11th of April, to the time of your leaving Basque Roads (according to your judgment), was every thing done that could be done to effect the destruction of the enemy's ships?

A. I think there was every thing done.

ADMIRAL YOUNG—From the time of your arrival in the Basque Roads, to the time of your quitting it, can you state any instance of neglect, misconduct, or inattention to the public service, in the proceedings of the Commander in Chief?

A. No, I cannot.

PRESIDENT—Does your Lordship wish to put any question to Captain Ball?

LORD GAMBIER—No, Sir.

Captain JAMES NEWMAN, of His Majesty's Ship the Hero, sworn.

PRESIDENT.—When did you go into Basque Roads, and when did you quit it?

A. I went in with the Commander in Chief, and remained there till the 25th of April, when I left it with the squadron.

Q. From the first attack upon the ships of the enemy on the evening of the 11th of April, to the time of your leaving Basque Roads, was (according to your judgment) every thing done that could be done, to effect the destruction of the enemy's ships?

A. Perfectly so.

ADMIRAL YOUNG—From the time of the Commander in Chief's arrival in Basque Roads, to the time of your quitting it, can you state any instance of neglect, misconduct, or inattention to the public service, in the proceedings of the Commander in Chief?

A. None. From the nature of the oath I have taken, or even if that had not been the form of the oath, I should feel

it necessary, if I had observed any conduct of any particular officer, and men, however humble their situation, to have mentioned it to the Court.

PRESIDENT—No, that would have been improper—you can speak only as to the Commander in Chief—it is only the conduct of the Commander in Chief this Court is called upon to enquire into.

CAPTAIN NEWMAN—Having observed some conspicuous conduct of the brigs, I was about to have mentioned that—that is all.

Captain WILLIAM ROBERT BROUGHTON, of His Majesty's Ship the Illustrious, sworn.

PRESIDENT—When did you enter Basque Roads, and when did you quit it?

A. I entered Basque Roads on the 17th of March, and quitted it with Captain Newman.

Q. In your services in Basque Roads, had you any opportunity of making observations upon the state of the enemy's fortifications on the Isle D'Aix?

A. Yes, I had.

Q. Narrate what were those observations?

A. I was on board the Amelia when she was ordered to dislodge the enemy from the Boyart Shoal, and being nearly within gun shot of the Isle D'Aix, I observed the fortifications: they appeared to me to be in a very different state to what I observed them when serving two or three years before under Sir Richard Keates: I thought they were repairing the works, from the quantity of rubbish that was thrown up, and I counted on a semi-circular battery, which commanded the roadsted where the enemy lay, between fourteen and twenty guns, I am not positive as to the exact number—there was a small battery lower down, nearer the sea—I do not know the exact number of guns, there might be six or nine—I suppose, what I had before taken to be a block-house above the semi-circular battery, seemed to have no guns whatever—there appeared to be loop-holes in the upper part for musquetry, I suppose: it appeared to be a barrack for containing the guard. I thought, from this observation, that the fortifications of the island, at least in that part, were not so strong as we supposed; and I reported my opinion to that effect to Lord Gambier.

Admiral Sutton—Do you recollect, from seeing the log, what day this was?

A. I am pretty certain it was the 1st of April.

President—Are those the only guns you observed upon Isle D'Aix, that could bear upon the anchorage near that island?

A. Those were all that I observed—there might be more.

Q. Did you notice any furnaces for heating shot?

A. No, I did not.

Q. Do you know whether there were any mortar batteries on the Isle D'Aix?

A. Only subsequently from their throwing shells; but it was supposed so at the time.

Q. Did it appear to you that the enemy was constructing new works in front of the old ones, and nearer to the sea?

A. It appeared to me that they were repairing and improving the old works.

Q. Did it appear to you, that the heaps of rubbish which you saw, were the remains of works that had been destroyed, or collected there for the purpose of constructing new works?

A. I think that the rubbish was the remains of the old works that had been taken down.

Q. Did you see any other cannon besides those you have stated?

A. O, dear, yes; the whole of the island appeared to be defended. I only spoke of those which appeared to bear upon the anchorage of Aix Road, and commanded the entrance.

President—Would your Lordship wish to ask any questions upon this subject?

Lord Gambier—I would wish Captain Broughton to point out, in the chart, the situation of the Amelia, when he was on board her, and made those observations?

A. The south point of Isle D'Aix was just shut in with Fouras Castle, and I think the bearing was nearly S.E. and by E. when it was open; when it was touching the point, we were just out of gun-shot from both sides—they fired at us from both sides, but the shot did not reach us.

Q. Could you ascertain, from your position, the number of guns or mortars on the south and south-east side of the Fort?

A. No, certainly not in the south-east part, except in part as far as the semi-circular battery went.

President—If you are correct in the bearings you have

given, there might be a vast number of guns which might annoy the Road of Aix?

A. Yes, there might.

Q. From the first attack on the ships of the enemy, on the evening of the 11th of April, to the time of your leaving Basque Roads (according to your judgment), was every thing done that could be done to effect the destruction of the enemy's ships?

A. I think it would have been more advantageous, if the line-of-battle ships, frigates, and small vessels, had gone in at half flood, which I take to be about 11 o'clock, or between 11 and 12, I suppose.

Q. Were there two line-of-battle ships remaining at anchor in Aix Roads?

A. Yes, there were—these memoranda were written at the time, to which I suppose there is no objection to my referring—there were nine sail on shore, with the frigates—the Rear-Admiral and Commodore remained at their anchorage.

Q. Did you take notice of the position of the French three-decker when she was on-shore?

A. Yes, I did.

Q. At what time did the two ships that remained at anchor, remove to the entrance of the Charente?

A. I cannot speak positively as to time; but it was soon after noon that the French Admiral, and two more, got off, and moved towards the Charente. I beg pardon; I was thinking of the ships that were on shore; the two ships at anchor went first.

Q. Do you mean to include the three-decker as one that went away?

A. Yes. As far as my recollection goes, the French Admiral, and two more, got off, and made sail towards the river, very soon after the two that were afloat.

Q. By the French Admiral, do you mean the Ocean?

A. Yes.

Q. As the two ships that remained at anchor did not change their situation till after it was noon, and the Ocean continued in her position till about the same time, if the British ships had been ordered in at 11 o'clock, which you thought would have been the proper time?——

A. I would rather say between 11 and 12 o'clock, and which, in my judgment, was more advantageous. I do not pretend to put my judgment in competition with Lord Gambier's.

Q. Would not the ships so sent in, have been exposed to the fire of the two ships that remained at anchor, the French Admiral's ship, and the batteries of the Isle D'Aix, at the same time?

A. Certainly; but I conceived they were partly panick-struck, and, on the appearance of a force coming in, might have been induced to cut their cables, and try to make their escape up the river.

Q. In the event of their proving not to have been so panick-struck, and of their having defended themselves, aided by the batteries on shore, are you of opinion that the British ships must have suffered greatly on the occasion?

A. I think they would have suffered; but that a ship or two might have been placed, in my opinion, against the batteries on the southern part of Isle D'Aix, so as to take off their fire, and silence them. I mentioned to Sir Harry Neale, on board the Caledonia, when the signal was made for all Captains in the morning, that I thought they were attackable—speaking of the confused state in which the French ships appeared to be at the time.

Q. How near can ships of the line approach the batteries upon the Isle D'Aix, on that part where you would have recommended an attack?

A. Judging, by the chart, I should suppose very close—I should suppose about two cables lengths.

Q. If ships had been so brought up against the batteries on the Isle D'Aix, and it should have happened that they met with such damages, from the attempt, as to render it necessary to withdraw them (and such a case naturally implies damages in masts and rigging); where, considering the strength and direction of the wind at that time, could these ships have retired to?

A. I think, as the wind was north-westerly and northerly, they might have found a safe anchorage and protection in what is called, in the French chart, which I had on board, L'Grand Trousse, particularly where the Aigle afterwards lay, where there is thirty or forty feet of water out of range of shot or shells in any direction.

Q. Do you think that ships, having been subjected to the fire of batteries on shore from the Isle D'Aix, at the distance of two or three cables length, and finding a necessity to retire from these batteries, could possibly be in a condition with respect to masts, yards, and sails, with a strong northerly wind and lee tide, to fetch the anchorage, you have described, from the Isle D'Aix, without driving upon the Palles Shoal?

A. It would depend upon circumstances. I conceive the possibility of the batteries being silenced.

ADMIRAL DOUGLAS—That question supposes the batteries were not silenced.

PRESIDENT.—I say, there being a necessity to retire from the batteries; there could not be a necessity for retiring, if they were silenced?

A. It would depend upon circumstances—there would be slack water about two o'clock, or between two and three (it cannot be supposed that the action would be over in a moment) with the wind moderate, for the wind was moderating fast at that time—in the morning they would be able to reach that anchorage, in my opinion.

Q. In a crippled state?

A. Yes, in a crippled state—I only speak as to the conviction in my mind of the possibility of silencing the batteries, —not going to the above consequences.

Q. Are we to understand, then, that you would have recommended the measure of sending ships in against the batteries in the Isle D'Aix, upon a presumption that the batteries must be silenced, without adverting to what would befall the ships, in case they should not be silenced?

A. I did not give it that consideration at the time—I only speak to my opinion that I conceived it was practicable to acquire that anchorage, although disabled; and I heard my Lord Gambier the same morning state, it had been his intention to have gone against the batteries I now speak of, with the Caledonia and some other ship; but as the enemy were on shore, he did not think it necessary to run any unnecessary risk of the fleet, when the object of their destruction seemed to be already obtained.

Q. Did you, on the 12th of April, know of the safe anchorage you have now described for line-of-battle ships, out of the range of shot and shell?

A. Only by the French charts, and which, from having been long accustomed to use, I imagined were correct.

Q. Had you a French pilot on board?

A. Yes.

Q. Did he state to you that the soundings on the chart were correct?

A. He had never been in, except in a chasse marée—he said he was not acquainted with the nature of the ground in Isle D'Aix Roads—my conjecture of this being a proper anchorage for ships, arose from a conversation I had with my brother officers, that should Lord Gambier think of attacking the enemy in the situation in which they were when we first came into Basque Roads, and in case of being materially damaged

by such a hazardous undertaking, if the charts were to be believed, there appeared to be water enough in that position.

Q. Do you know that, from the anchorage in Aix Road to the anchorage you have just now described, there is any shoaler water between the Boyart and the Palles Shoal; I mean in the entrance to this anchorage, that there is a bar goes across?

A. No; I do not know any thing of it, whether there is or not. I sounded from the wreck of the Varsovie to that anchorage, and found no shoal there.

President—That is not the place; it is marked in some of the charts that between the Boyart and the tail of the Palles there is a bar?

A. I sounded as I came in from the fleet, but I did not find out any bar.

Q. You have spoken of conversations you had relative to attacking the enemy's ships at their anchorage near the Isle D'Aix by the British squadron—Had you commanded the British squadron, the enemy's ships being moored in two close and compact lines, supported by the batteries of the Isle D'Aix, and without any other knowledge of the soundings in the vicinity of that anchorage than was possessed by the fleet previous to the attack upon them by the fire-ships, would you have gone in with the squadron to have attacked them in that position?

A. Most certainly not: I only mention my knowledge of the anchorage to have arisen on our first arrival, in case there was a possibility of such an event taking place, which nobody believed ever would take place, there could be no prospect of any success attending it.

Q. After the two ships which remained at anchor had got into the entrance of the Charente, and the Ocean and other French ships which got off the Palles had obtained the same situation, do you know if any practicable attempt for destroying them was omitted to be carried into execution?

A. I was not in shore, and therefore cannot pretend to say. The Commander in Chief appeared to me to have sent them every assistance they could possibly require to effect their destruction.

Admiral Young—How many ships of the line did you think would have been sufficient to silence the batteries of Isle D'Aix?

A. I should think two would be quite sufficient.

Q. How many would you have thought it necessary to send into the Road of Aix to attack the ships?

A. I should think five or six ships of the line of the least draught of water.

Q. If two line-of-battle ships had been sent against the batteries of Aix, and five to attack the ships in the Road, must it not, according to the common circumstances attending actions, have happened that several of those ships would have been disabled, and many men killed and wounded?

A. I should think by the batteries there would; but I conjecture that the discomfited French squadron would have made very little resistance.

Q. As an attack, not proper in itself, should never be made on the mere conjecture that the enemy will not resist,—(I do not mean to insinuate that the attack you propose would not have been proper)—what would probably have happened to the ships if the enemy had resisted?

A. It is impossible to foresee what might have happened; but from the situation in which the enemy were, not having recovered their fright of the night before, I think the loss would have been very little, as few of their ships were in a situation to fight their guns.

Q. Do you know whether the five or six ships, which you proposed to send to attack the enemy's ships, would, or would not have been exposed to the fire of other batteries on the Isle D'Aix, besides those which you proposed to attack by the two ships?

A. From the view I had of the island and its batteries, when in shore, I should think they would not. I speak of subsequent knowledge, when I was on board the Aigle.

Q. Information you have acquired since?

A. Yes.

PRESIDENT—Does your Lordship wish to ask any questions?

LORD GAMBIER—No. I have none to ask of Captain Broughton.

PRESIDENT—Lord Gambier, is it your wish to call any other witness?

LORD GAMBIER—I should wish Captain Kerr might be questioned as to his opinion of the effect of the batteries on the Isle of Aix, as he passed out in the Revenge.

PRESIDENT—Your Lordship will recollect that Captain Kerr was pretty closely examined upon that point this morning.

Captain KERR called in again.

Examined by Lord Gambier.

Q. In the course of your evidence you have stated that your ship received considerable damage from the batteries of Isle

D'Aix in passing out; I desire you will state what, from your experience of the effect of the batteries, would have been the fate of the Revenge and any other seventy-four gun-ship, had they been anchored within two or three cables' length, with a view of engaging those batteries until you had silenced them?

A. I should certainly have expected, from the heavy fire they kept up, both in going in and coming out, that ships anchored there must have been completely dismasted, and suffered a severe loss of men.

Q. What would have been the probable fate of those ships so disabled with the wind blowing from the northward, as it did on the 12th of April?

A. If dismasted, they would in all probability, and indeed must have been lost.

President—If ships so sent in to attack the batteries in the Isle D'Aix did not, from the strength of the enemy's works and the resolution of those who defended them, succeed in silencing the batteries, and found it indispensably necessary to retire from before them, could they, in a crippled state, with the wind blowing fresh at N.N.W. have got to the anchorage latterly taken up by the Imperieuse, Pallas, and Aigle under such circumstances?

A. If a vessel so situated had lost her fore-mast, she certainly could not have got before the wind; and without that, and having good way, so as to have been perfectly under command, she must have drifted to the southward and eastward, which would have taken her up the Charente or upon the Palles.

Admiral Young—Did you observe the batteries on the south end of the Isle of Aix?

A. I did not make particular observations. The officers reported to me that they saw a number of guns on the S.W. side, and I saw a number of guns.

Q. Is the battery you saw near the water's edge, or at a distance from it?

A. Not any very great distance. It is not close to the water's edge; but the guns would have borne upon any ship within a cable's length of it.

Admiral Sutton—Were they covered works?

A. What I saw were not covered. There were different tiers of guns; not one battery immediately over another, but at different heights.

ADMIRAL YOUNG—Was the battery low enough to admit of its being destroyed by the guns from ships?

A. On the south side I think not. On the south-west side the guns from the ships would have borne on the battery.

Q. Did you see any other batteries on the Isle of Aix that would have borne on ships sent in to attack the enemy?

A. None but those immediately connected with the works; altogether it was one continued chain of works connected with the fortifications of the Island, extending from the western round to the southern side of the Island; as the guns never ceased to act upon the Revenge during the whole time from her going in till her coming out again: during the whole time of her being in Aix the guns continued to play upon her.

Q. Did you receive any orders from the Commander in Chief before the ships weighed from the outer anchorage in Basque Roads on the morning of the 12th of April?

A. I did. I received the Commander in Chief's order at nine in the morning to anchor close down upon the Boyart Shoal within shell range, to be prepared and ready to go in, as I might be able to prevent the enemy's ships warping off.

Q. Did you, at any time in the course of that morning, receive any orders contradictory to those?

A. None whatever.

Q. Did you understand that those orders authorised you to do whatever, in your discretion and according to the best of your judgment, you should think would prevent the enemy from warping off?

A. I did not think those orders authorised me to move the ship; and I considered myself particularly under the orders of Captain Bligh, who was likewise sent down there. On anchoring, I waited on him to know if the situation the Revenge had taken was what he thought right, and likewise to state that the pilot would not take charge of the ship further.

Captain BLIGH called in again.

ADMIRAL YOUNG—Did you receive any orders from the Commander in Chief previous to the moving of the fleet from the outer to the inner anchorage in Basque Roads, on the morning of the 12th of April?

A. I received orders from the Commander in Chief that morning, about eight o'clock, to proceed with the Valiant, and

anchor close to the Boyart Shoal, and not to mind being within range of shell from the Isle D'Aix.

Q. Were you directed to anchor there for any purpose?
A. Yes. To be ready to support the smaller vessels in the advance.

Q. Did you think that order authorised you to use your discretion and judgment in the mode of supporting the smaller vessels, and to move your ship for that purpose?
A. I did not think by that order that I was at liberty to move from the anchorage without further order from the Commander in Chief.

PRESIDENT—My Lord Gambier, it is not the intention of the Court to make any further examination of witnesses. There was something which you submitted to the Court yesterday, which it was deemed expedient to defer entering on the Minutes. If, in consequence of what has since been stated to the Court, your Lordship should be desirous of making any addition to it, we are ready to wait any time for the delivery of it, which your Lordship may wish.

LORD GAMBIER—If the Court will indulge me with a quarter of an hour to consider whether I shall add any thing further, that will be quite sufficient.

PRESIDENT—It is now late in the day; it will be impossible to arrange every thing finally to-day. I should doubt, therefore, whether it would not be as well to adjourn till to-morrow morning, when you may make any observation you chuse to make to the Court. If you are desirous rather of giving it in to day you can retire for a short time to the upper apartment; but if you have the least wish, I will, with the greatest pleasure, propose to the Court to adjourn till to-morrow morning.

LORD GAMBIER—If it is agreeable to the Court, I should wish what I submitted yesterday to stand in the Minutes of yesterday; and if I have any thing to add, I will deliver it in to-morrow morning.

PRESIDENT—Will that be more consonant with your Lordship's wishes, than to proceed immediately?

LORD GAMBIER—If you please, as the Court cannot finish the whole to day.

Adjourned till to-morrow.

NINTH DAY,

FRIDAY, AUGUST 4, 1809.

LORD GAMBIER—Mr. President, I closed my evidence on Wednesday, in the full persuasion that having established every part of my Defence, it was unnecessary for me to examine further witnesses, the more especially as I had called all the officers who were in Aix Roads, and had been actively engaged in the attack on the enemy. Their testimony would, I conceived, be more acceptable to the Court than that of other witnesses deriving their knowledge from subsequent information.

The Court, however, in the exercise of its discretion, thought proper to call all the remaining witnesses; and I heartily rejoice, that nothing has been omitted to render the enquiry most complete. It is with no inconsiderable degree of satisfaction that I find, in their depositions, testimony equally honourable to me with that of the officers before examined.

Some positions laid down by two of these witnesses, have been so completely refuted by other evidence brought forward, that I feel myself the more confirmed in my opinion, that the measures I pursued for the attack of the enemy were those best calculated for the advantageous attainment of the object in view.

The Right Honourable LORD COCHRANE called in.

PRESIDENT—Lord Cochrane, I have received the note which you addressed to me, and have taken the sense of the Court upon it. The decision of the Court is, that as the matter, to which your Lordship refers, does not at all bear upon the trial of Lord Gambier, they cannot enter into it.

LORD COCHRANE—I would request, Sir, that that letter may appear as an official letter to you, and that it may be entered upon the Minutes.

PRESIDENT—The Court will take that into their consideration.

The Court was cleared.

The Court was re-opened at one o'clock.

PRESIDENT—Lord Cochrane, the Court have taken into their consideration the note you addressed to them, and have agreed that it shall be attached to the Minutes.

The Letter was read, and is as follows:

"SIR, "August, 4, 1809.

"Having learnt from my brother officers that a report has gone abroad, that I censured, in general terms, the conduct of the officers employed in the Road of Aix, on the 12th of April, I wish to have an opportunity to declare the truth, on oath; considering reports of that nature highly injurious to the service of our country. I am also desirous to lay before the Court the orders given to the fire-ships for their guidance, as these will tend to elucidate and clear some of those who consider that blame has been imputed to them.

"I have the honour to be, Sir,

"Your most obedient humble servant,

"COCHRANE."

"*Admiral Sir Roger Curtis, President.*"

The Judge Advocate read the Sentence of the Court as follows:—

At a Court Martial, assembled on board His Majesty's ship Gladiator, in Portsmouth Harbour, on the 26th day of July, 1809, and continued, by adjournment, from day to day (Sunday excepted), until the 4th day of August, 1809,

PRESENT,

Sir ROGER CURTIS, Bart. Admiral of the White, and Commander in Chief of His Majesty's Ships and Vessels at Spithead, and in Portsmouth Harbour, President,

WM. YOUNG, Esq. Admiral of the Blue.

Sir J. T. DUCKWORTH, K.B. Vice Admiral of the Red.

Sir H. E. STANHOPE, Bart. Vice Admiral of the White.

BILLY DOUGLAS, Esq. Vice Admiral of the White.

G. CAMPBELL, Esq. Vice Admiral of the Blue.

JOHN SUTTON, Esq. Rear Admiral of the Red.

Captain JOHN IRWIN.

Captain ROBERT HALL.

——— E. S. DICKSON.

——— R. D. DUNN.

Pursuant to an Order from the Right Honourable Lords Commissioners of the Admiralty, dated the 5th Day of June last, and directed to the President, setting forth, that Admiral the Right Honourable Lord Gambier had, by his letter to their Lordships' Secretary of the 30th of May, 1809, requested that his conduct, as Commander in Chief of the Channel Fleet, employed in Basque Roads, between the 17th day of March and the 29th day of April, 1809, might be enquired into by a Court Martial; and that by the log-books and minutes of signals of the Caledonia, Imperieuse, and other ships, employed on that service, it appeared to them, that the said Admiral Lord Gambier, on the 12th day of the said month of April, the enemy's ships being then on shore, and the signal having been made that they could be destroyed, did, for a considerable time, neglect or delay taking effectual measures for destroying them: and they, therefore, in compliance with his Lordship's request, and in consequence of what appeared in the said log-books and minutes of signals, thought fit that a Court Martial should be assembled for the purpose of examining into his Lordship's conduct, and trying him for the same—the Court proceeded to try the said Admiral the Right Honourable Lord Gambier for his conduct in the instance hereinbefore mentioned, and also to enquire into his whole conduct and proceedings as Commander in Chief of the Channel Fleet employed in Basque Roads, between the said 17th day of March and the 29th day of April, 1809, and to try him for the same accordingly: And having heard the evidence produced in support of the charge, and by the said Right Honourable Lord Gambier in his defence, and what his Lordship had to allege in support thereof; and having maturely and deliberately weighed and considered the whole, the Court is of opinion, that the charge,

" That the said Admiral the Right Honourable Lord " Gambier, on the 12th day of the said month of April, " the enemy's ships being then on shore, and the signal " having been made, that they could be destroyed, did, " for a considerable time, neglect, or delay, taking effec- " tual measures for destroying them,"—has not been proved against the said Admiral the Right Honourable Lord Gambier; but that his Lordship's conduct on that occasion, as well as his general conduct and proceedings as Commander in Chief of the Channel Fleet employed in Basque Roads, between the said 17th day of March and the 29th day of April, 1809, was marked by ZEAL, JUDGMENT, ABILITY, and an anxious Attention to the Welfare of His Majesty's service, and doth adjudge him to be MOST HONOURABLY ACQUITTED; and the said Admiral the Right Honourable Lord Gambier is hereby MOST HONOURABLY ACQUITTED accordingly.

(Signed) ROGER CURTIS,
W. YOUNG,
J. T. DUCKWORTH,
H. E. STANHOPE,
B. DOUGLAS,
G. CAMPBELL,
JOHN SUTTON,
JOHN IRWIN,
ROBERT HALL,
E. S. DICKSON,
R. D. DUNN.

M. GREETHAM, Jun.
Deputy Judge Advocate of the Fleet.

PRESIDENT—Hand me up my Lord Gambier's sword.

It was handed to the President.

PRESIDENT—Admiral Lord Gambier, I have peculiar pleasure in receiving the command of the Court to return you your sword, in the fullest conviction that (as you have hitherto done) you will, on all future occasions, use it for the honour and advantage of your country, and to your own personal honour. Having so far obeyed the command of the Court, I beg you will permit me, in my individual capacity, to express to you the high gratification I have upon this occasion.

LORD GAMBIER—I cannot sufficiently express the sense I feel of the patient attention of the Court; and beg to return thanks to you, sir, for the obliging manner in which you have conveyed to me their sentiments.

APPENDIX,

No. I.

IMPERIEUSE's LOG-BOOK,

AS PROVED BY HER MASTER,

MR. SPURLING.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, &c. Monday, 10th April, 1809.
							A. M.
1							Moderate and clear weather.
2				North.			
3			Single				
4							At 4, do. weather. Out all boats.
5							
6				N N E			Sent working parties to the fire-ships. Enemy still in the same state.
7			Anchor.		Ansd. 216 and 213		7. 50. up top-gallant yards, and loos'd sails.—At 8, do. weather.
8							At 8. 50. furled sails. Fresh breezes and hazy weather. Employed as before on board the above ships. Armourer at forge; seamen fitting maintop-sail; carpenter fitting boats masts.
9				N by W	Ansd. 195 and 214 Caledonia		
10							
11							
12	$8\frac{3}{4}$						Noon thick hazy weather, with rain at intervals.
water		rems					

$1\frac{1}{2}$	64					Single Anchor, Basque Roads.
						P. M.
1						Employed fitting fire-vessels, &c.
2						
3			N by W	Ansd. No. 100, New arrange-ment.		At 3, arrived H. M. brig. Beagle and convoy 9 sail in No. fire-ships.
4						
5						
6						
7			N W			
8						Fresh breezes. In all boats.
9						
10						At 8, do. weather, with small rain.
11						
12						Midnight squally, with rain.

H	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, &c. Tuesday, 11th April, 1809.
							A. M.
1							
2							Fresh Breezes, with continual rain.
3				W N W			
4							At 4, do. weather.
5							Day-light, out pinnace.
6							6, Moderate and clear weather. Sent the boats on board the exploding-vessels to lay their trains.
7				N W			
8							At 8, fresh breezes, and cloudy weather.
9							
10				N N W	Answered 213 and 214 Caledonia.		At 10, out all boats, and clearing ship for action.
11							
12							Fresh breezes, and cloudy. Sent 12 barrels of powder on board the exploding-lugger.
							Noon, do. Weather.
water		rems					

$2\frac{1}{4}$		$60\frac{3}{4}$				Single Anchor, Basque Roads.
						P. M.
1						Strong breezes, and cloudy Weather.
2						Employed clearing ship for quarters and sending boats to the respective exploding and fire-vessels.
3						
4						At 4, weighed and run into the inner anchorage.—At 5, came-too sml. br. in 9 fms. Isle Pt. S E by E do. to East. Boyuart Beacon S $\frac{3}{4}$ W. Center of enemy's fleet S E by S. French wreck S by E.—At 8, the first vessel exploded; the fire-ships coming down in a very irregular manner: three of them having been lighted at least $1\frac{1}{2}$ miles from this ship to windward. One grounding on the Point of Oleron Isle, other passing the enemy at distance of $\frac{3}{4}$ mile nearly to the S W.—Strong breezes, with rain at intervals. *Mediator near the enemy.*
5						
6						
7						
8						
9						
10						Employed as necessary. Boats absent, giving necessary directions to above ships.—*At* 9. 10. *a brig on fire passed close to the Imperieuse and took an explosion-vessel from the stern.*
11						
12						Midnight, most of the boats returned.—Strong breezes, with small rain. *Observed several of the enemy's vessels broadside on, supposed on shore.*

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, &c. Wednesday, 12th April, 1809.
							A. M.
1							Fresh breezes, and cloudy weather.
2							
3				N E			
4							Employed getting boats hoisted in. Hove into half cable.
5							Observed several of the enemy's vessels to be on shore in No.—At 4,
6							weighed and made sail to work out to admiral.—At 6, made sig-
7				North			nal for 7 sail of the enemy's ships being on shore.—At 8, hove-to
8							and made sundry telegraph signals to Caledonia.—At 9, wore and
9							stood in to passage Isle Aix.—10, came-to in 8 fms. Fort on Isle
10							of Aix S E by E. Joubert Rock, S ¼W. Sent a boat and buoyed
11							the channel into the inner roads.—11. 30. weighed and run into
12				N N W			the inner harbour in company with the Etna bomb and a gun-
							brig. Enemy's ships making sail up the Charente.
							Noon, light breezes. Enemy throwing shells without effect.
							Set the top-sails and top-gallant-sails.

1			*Standing into the harbour of Aix.*		At one, made No. 477 to Caledonia, & 465	
2						
3						
				N N W		
4						
5				20.		
6			*Killed in the action following seamen.*	*At 3. joined co. Emerald, Unicorn, Valiant, Indefatigable, Revenge, Pallas, and Aigle. At 4, Beagle, Growler, Conflict. Dotterel, Ethalion*		
7			*Henry Crookman*			
			Peter Der Rouke			
8			*John Mesowich*			
			Wounded Do.			
9			*J. Soloman*			
			Wm. Gordon			
10			*Jas. Mason*			
			Mr. Marsden, Purser			
11			*Mr. G. Gilbert, Asst. Surg.*	S S E		
			J. Sherridan			
12			*J. Hunter*	S S W		
			J. Whelan			
			M. Goad			
			W. Minchinton			
			S. Budd			

Inner
Single Anchor, ∧ Basque Roads.

P. M.

At 1, made signal for chace being superior.—1. 10. made signal for immediate assistance.

At 1. 40. shortened sail and fired a shot at the enemy's ship Calcutta, then under sail and endeavouring to get off the Palles bank.—At 2, came-to in 5 fms. with springs on the small bower. Veer'd-to ½ cable, and commenced close action with the following ships, Ville de Varsovie, Calcutta, and Aquilon, line-of-battle ships ✕ At 3. 55. ceased firing, enemy's ships having surrendered. Made signal for the same to the squadron in Co.—At 4. 20. sent a boat and crew to take possession of the Calcutta, her crew having left her. Employed knotting and splicing the running and standing rigging, it being much cut by the enemy's shot.

At 6, set fire to the Calcutta, she being on shore.—At 6. 20. employed receiving provisions from the Ville de Varsovie and Aquilon; part of the latter ship's Co. having left her.—At 7, the enemy set fire and left the Tonnere. Fresh breezes and hazy. Weighed the whole of the squadron, and went out of range of shells, Imperieuse excepted being on shore; at 9.30. floated. Strong breezes and rain. All boats employed taking out the provisions.—At midnight, squally with rain. Joined the squadron 3 sail of fire-ships.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, &c. Thursday, 13 April.
							A. M.
1				N W			
2							At 2, more moderate. Departed this life, being wounded, Capt. Mainga, of the enemy's ship Aquilon.
3				West			At 3, set fire to the Aquilon and Ville de Varsovie. Observed one of the fire vessels to weigh and stand in for the island, where she got ashore.
4							At 3.40. weighed, and worked out to the outer anchorage.—Went out and joined the fleet, H. M. ships, viz. Valiant, Revenge, Indefatigable, Unicorn, L'Aigle, and Emerald. Remained at anchor, Pallas and Etna, Growler, Beagle, Conflict. Fervent, Encounter, brigs.—At 6, came to, in 5½ fms. sm. br. veered to ½ cable, bearing per margin. Thick rainy wr.; employed clearing the deck. Hove overboard, being totally unserviceable by enemy's shot, a cutter of 25 feet, other much damaged. Carpenter stopping shot holes in sides and decks.—At 7, employed preparing to attack the enemy. Vice and Rear Admiral ships, and frigates on shore, under the town of Fouras. Commodore and two sail of line endeavouring to get up the river Charente.—At 8, sent the Etna bomb with the following brigs of war to destroy the above ships, Beagle, Growler, Fervent, Encounter, Contest, and Conflict.—At 9.30. sent galley to the Etna's assistance, she being on shore.—At 11 she got off, and commenced firing upon the Ocean, Vice Admiral's ship, the whole squadron engaging the enemy.
5							
6							
7							
8							
9			Palles rocks E S E Batty. of Aix N E ¼ N. Isle from, N N E ¼ E to N E by E ¼ E. Oleron Isle S by W to N W ½ W. Joubert rock N ¾ W. Reef to N W by N. 5 ¼ fm. low water, spring tides.				
10							
11							
12							Noon, strong breezes. Joined co. the Foxhound, Redpole, and Doterel, brigs.

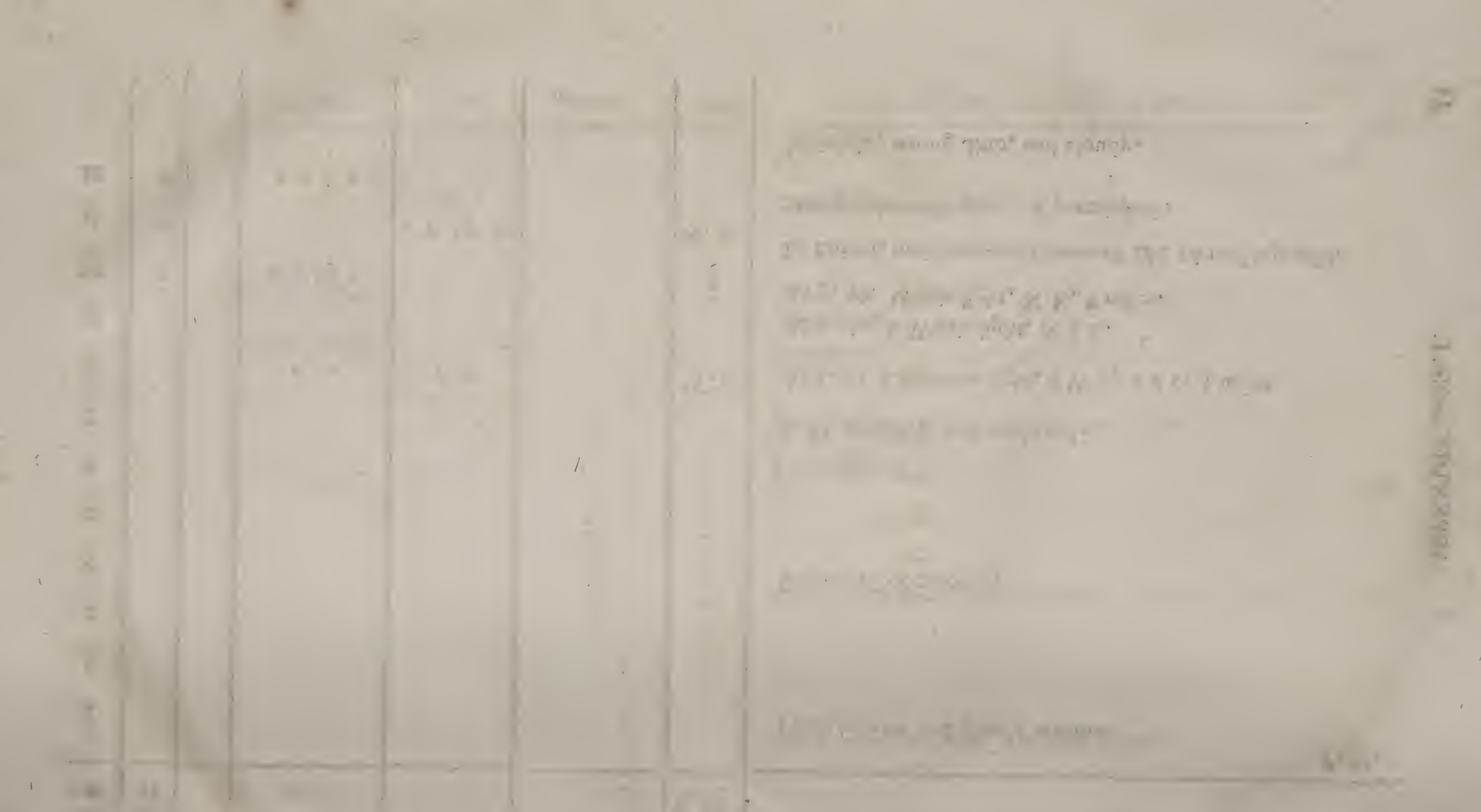
1							P. M.
2				W N W			Fresh breezes and squally wr. Squadron in shore, still engaging the enemy's fleet, who was endeavouring to get up the river. Supplied one of the fire-ships with a kedge anchor.
3							
4							Shifted the fore-top-mast, it being shot through under the hounds, and unserviceable. Refitting the rigging; fitting preventer-backstays and fore-shrouds, former shot away with all the blocks, &c.—At 4, weighed the inshore squadron, and worked out, the ebb tide having made, and not water for the bomb to lay afloat. Anchored here the squadron. Supplied H. M. brig Beagle, with a foretop-sail-yard for main do. Completed setting the top-mast and top-gt. rigging, &c. Strong gales. Made telegraph signal for the squadron to moor. At 7. 30. veered-to a cable and half, and moored ship.
5							
6							
7						Answered recall from Caledonia. Made telegraph to ditto.	
8							
9			Moored with above bearings $5\frac{1}{4}$ fms.				
10							
11							Strong breezes, and squally weather.
12							Heavy rain at intervals.
							Midnight, squally, with rain.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, &c. Friday, 14 April, 1809.
							A. M.
1							
2				West			Fresh gales and rain.
3							
4			Moored				
5							Cloudy, with rain.
6				W N W			Daylight, observed the enemy to be still in the same state. Boats near them, taking out stores. Three of them getting out their guns; and the frigate Indian unrigging, she being so high on the bank, and apparently a wreck, *near Fouras town*. Answered the signal of recall from Caledonia. Made int^{y}. signal for unmooring to ditto, and answered signal to weigh from ditto. Answered signal to communicate with L'Aigle frigate. Made sundry telegraph signals to Caledonia.
7							
8					Answered the Caledonia's recall.		
9					Made 215 to ditto.		
10			Single Anchor.		Made 165 int^{y}.		
11					Answered 166 Caledonia.		Unmoored and hove-in to a cable on best, &c. Made signal for a lieutenant from Etna bomb.
12							
							Noon, fresh gales and clear. Got ready to weigh with the ebb tide.
water	rems.						

$6\frac{1}{2}$	$53\frac{1}{2}$						Single Anchor in Basque Inner Roads.
1							P. M.
							Anchored here H. M. ship L'Aigle.
2							
							Fresh gales and rain. H. M. ship Etna, with brigs in co. bombarding the enemy's ships in the Charente.
3			*Running out to join the fleet.*				
4					No. 165, to Caledonia.		At 3. 50. hove short.—At 4. 30. weighed, and made sail out to the fleet.
5							
6			*Single Anchor.*				At 5, shortened sail. Made interr^{y}. signal for anchoring. Answered with affirm^{ve}. in top-sails, and came-to in 10 fms.
7							
8			*Bearings, &c. when at anchor.*				
9			*Chasseron Light, N N W* *N. W. Point of Isle Rhé, N N W.*				Furled sails. Sent boat to Admiral.
10			10 *fms. sand gravel.*				Fresh breezes and rain. Hoisted in the galley.
11							Dark, cloudy weather, with rain.
12							Veered to cable service.
							Midnight, ditto weather.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, &c. SATURDAY, 15th April, 1809.
							A.M.
1							
				w by N			Strong breezes, with rain at intervals.
2							
3							
			Single Anchor,				
4							Ditto weather.
			Basque Roads.				
5							
6							Employed on sundry duties about rigging.
7				W N W			Carpenters as necessary.
8							
9							
							Fresh breezes and hazy weather.
10							
11							
12							
							Noon, employed clearing decks for sea.
water	rems.						

2	51					S. W.	
							P. M.
1							Fresh breezes and cloudy weather.
2							
3							
4							Employed occasionally.
5							
6							
7							7. 30. weighed, and made sail.
8			N W		S W	W. J.	At 8. 30. Chasseron light, S W by S 2 or 3 miles.
9							At 9. do. S Whale light, N $\frac{1}{2}$ E.
10	3		N W by N			$\frac{3}{4}$	At 9. 40. Whale light, N E, 5 miles.
11	6				S W by W	W. Jn.	In Driver, main-top-mast stay-sail and 3d reef top-sails.
12	6		N W $\frac{1}{4}$ N				Strong gales with rain. Up main-sail.
							Midnight, strong ditto, and cloudy.



APPENDIX,

No. II.

IMPERIEUSE's LOG-BOOK,

Received from Lord COCHRANE, and delivered 31st July, 1809, into Court by Lord GAMBIER.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, H. M. Ship Imperieuse, 11th April, 1809.
							A. M.
1							Fresh Breezes, with continual rain.
2							
3							
4							4, do. weather.
5							Day-light, out pinnace.
6							6, Moderate and clear weather. Sent the boats on board the explosion-vessels to fix their trains.
7							
8							8, moderate and cloudy.
9							
10							10, out all boats, and cleared the ship for action.
11							
12							Fresh breezes. Sent 12 barrels of powder to one of the small explosion-vessels.
							Noon, do. Weather.

							Bearings and Distance.
							Single Anchor in Outer Basque Roads.
							P. M.
1							Strong breezes. Employed variously. Handing up shot, &c. Sent boats to the explosion-vessels.
2							
3							
4							$4\frac{1}{2}$, ran down towards the inner end of the Boyart Shoal, and came-to in 9 fms. with the small bower close to the Shoal. North point of Isle D'Aix, East. South point S E by E. Boyart Beacon S $\frac{3}{4}$ W. Centre of enemy's fleet S E by S. French wreck S by E.
5							
6							8. 20. first vessel exploded.—8. 30. the second exploded, and several fire ships were kindled. Observed the enemy's fleet in great confusion, and cutting; several making sail. Fire ships coming down irregularly. Mediator and three others now on fire, close to the enemy.—At 9, one brig passed the Imperieuse all in flames, and swept an explosion-vessel from the stern: others kindled $1\frac{1}{2}$ miles to windward of the Imperieuse, and brought-to on the wrong tack.
7							
8							
9							
10							
11							One grounded on Oleron. Six fire-ships passed the enemy, at least $\frac{3}{4}$ of a mile to the westward. Strong breezes, with rain at intervals; tide setting to the S E. Captain absent with the boats.—12, most of the boats returned. Strong breezes, with small rain. Observed several of the enemy's ships to be broadside to the wind and tide.
12							

C

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, H. M. Ship Imperieuse, 12th April, 1809.
							A. M.
1							Fresh breezes and cloudy. Employed hoisting in as many boats as possible.
2							
3							Half-past 3, observed the enemy's ships to be much scattered, and most of them broadside to tide and wind, apparently ashore.
4							
5							
6							At day-light observed 7 sail to be aground, and shortly after made that signal. Weighed from under the range of Aix, and stood out towards the fleet.
7							At 7, made the signal of all the enemy's ships being ashore, except two. D°. that they might be destroyed. D°. that *part* of the fleet was enough to destroy them. Made several telegraph signals.
8							
9							Made signal that the enemy were preparing to heave off.—At
10							10, anchored close to the Boyart Shoal. South point of Aix S E by E.
11							At 11, fleet weighed. Anchored N.N.W. about 3½ miles distant. Enemy's ships heaving off, and making sail for the
12							Charente.

REMARKS, H. M. Ship Imperieuse, 12th April, 1809.

P. M.

1

2

3

4

5

6 *Killed in the action.*
Hy. Crookman
P. Darouke
John Mersitch

7

8 ——

Wounded.

9 *J. Solomon*
J. Mason

10 *Mr. Marsden*
Mr. Gilbert

11 *Jno. Sherridan*
J. Hunter

12 *W. Gordon*
Jo. Whelan
M. Goad
W. Mitchington
J. Budd

At 1, weighed and dropped in towards the enemy.—1½, set the top-sails, and made sail after the nearest vessels of the enemy. Made the signal for the chace, being superior. Ditto that we wanted assistance.

1. 50. shortened sail, and fired a shot at the Calcutta.—At 2, came-to in 5 fms. on the Pallais Shoal, veered-to half a cable, and kept fast the spring. Commenced action with the Calcutta. Forecastle and bow-guns firing at two other ships of the line.—2. 10. made the signal for the brigs and bomb to close, they having anchored too far off. Firing on the enemy. Emerald, Unicorn, Indefatigable, Valiant, Revenge, Pallas, and Aigle, standing towards us.—3. 20. cheered them as they approached. Sent a boat to the Calcutta, which had struck. Emerald, Unicorn, &c. firing on the enemy. Made their signal that the Calcutta had struck, and was boarded.—3½, Imperieuse ceased firing. Beagle, Growler, and Conflict joined. Employed repairing the rigging. Emerald, &c. still raking the enemy.—5½, enemy's two nearest ships struck. —At 6½, employed taking prisoners from the Ville de Varsovie and Aquilon, French ships of the line. Calcutta burning furiously. Enemy themselves set fire to the Tonnere.—8, all the ships weighed, and went farther out, the water being shoal.

Imperieuse remained at anchor.

Midnight, strong breezes, with rain. Boats employed shifting the prisoners.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, H. M. Ship Imperieuse, 13th April, 1809.
							A. M.
1							Moderate weather. Ship's company taking some rest.
2							
3							At 3, Aquilon and Ville de Varsovie were set on fire. At 3 ½, weighed and made sail farther from them. Observed one of the fire ships to run on Isle D'Aix, while turning out to avoid the ships which had been set fire to.
4							
5							At day-light, the Valiant, Revenge, followed by the Indefatigable, Unicorn, L'Aigle, and Emerald, weighed and went out and joined the fleet.—6, anchored the Imperieuse. Pallais Rocks E S E. Battery of Aix N E ¼ N. West point of Aix N N E ¼ E. East point N E by E ½ E. Jowbert Rocks N ¾ W. Reef N W by N. in 5¼ fathoms low water spring tides.—6 ¼. Pallas passed under sail, the Captain hailed to know if he should remain with the Imperieuse: ordered Capt. Seymour to do so, if no orders had been given him to act otherwise. Pallas anchored; Beagle, Growler, Conflict, Fervent, and Encounter brigs anchored also. Employed clearing the decks. Hove overboard a deal cutter which was shot to pieces. Carpenter stopping shot holes in the sides and decks; seamen employed about the rigging.—At 8, sent the bomb, protected by the brigs, to fire on the enemy's Vice and Rear Admirals. French Commodore and two other ships pressing sail to get up the Charente.—At 9 ½, sent the launch to the Etna's assistance, she having touched on the tail of the Pallais.—At 10 ¾, the Etna got off, and commenced firing at the Ocean.
6							
7							
8							
9							
10							
11							
12				Joined company the Redpole, Doterel, and Foxhound.			(Signed) COCHRANE.

REMARKS, H. M. Ship Imperieuse, 13th April, 1809.

P. M.

1
2
3
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10
11
12

Fresh breezes, and squally. Brigs firing and bomb throwing shells at the enemy. French ships endeavouring to get up the Charente. Supplied one of the fire-vessels with a kedge anchor. Shifted the foretop-mast, it being shot through. Employed refitting the rigging, &c.—4 ½, the brigs weighed. Bomb ceased firing and came out; strong ebb tide setting. Answered recall-signal from Caledonia. Made signal, Enemy can be destroyed. Brigs, &c. anchored near us. Supplied the Beagle with a yard to replace her main-yard. Completed refitting our rigging. Strong gales. Made the signal that Pallas, brigs, &c. might moor.

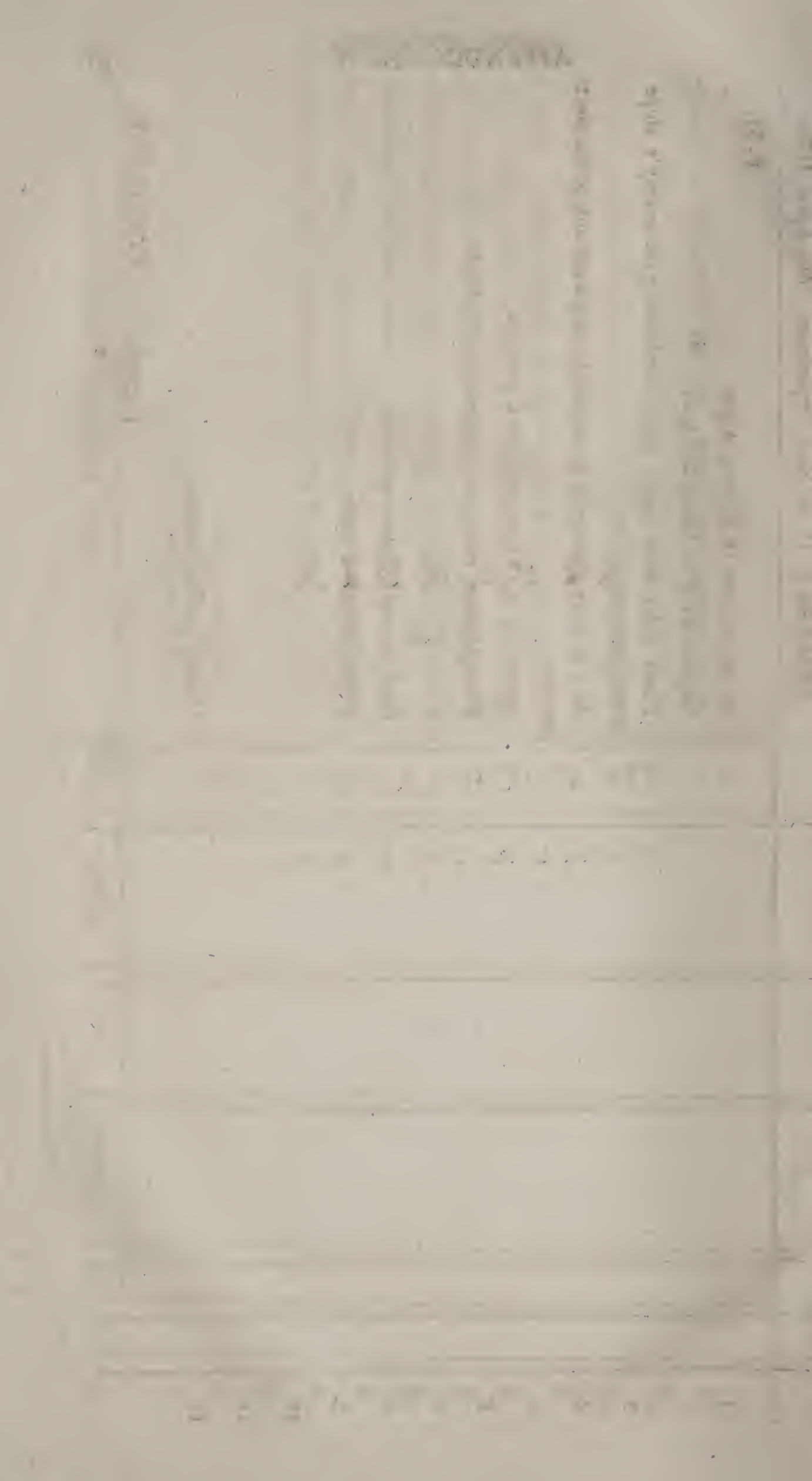
Midnight, squally weather.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, Imperieuse, 14th April, 1809.
							A. M.
1							Fresh gales, with rain.
2							Cloudy, with rain.
3							
4							Day-light, observed the enemy to be still in the same state. Chassee Marées taking in their stores. Three of them getting their guns out. Enemy's frigate Indienne unrigging. Answered the recall signal from the Caledonia. Made interrogatory signal for unmooring to ditto. Answered signal to weigh from the Admiral. Ditto to communicate with L'Aigle frigate. Unmoored and hove-in to half a cable on the best bower. Made a signal for a Lieutenant from the Etna bomb. Dispatched a cutter to the Admiral.
5							
6							
7							
8							
9							
10							
11							
12							Fresh breezes, and clear. Got ready to weigh on the ebb tide.

REMARKS, H. M. Ship Imperieuse, 14th April, 1809.

		P. M.
1		Anchored here H. M. ship Aigle.
2		Captain went on board L'Aigle.
3		Fresh gales with rain. Etna bombarding the enemy's ships in the Charente.
4		At 3 ¾, hove short.—4 ½, weighed, and went out to the fleet per order.
5		Anchored in 10 fms. near the Caledonia.
6		Fresh breezes, with rain. Hoisted in the boats.
7		
8		Dark cloudy weather, with rain.
9		Veered-to half a cable.
10		
11		
12		Midnight, ditto weather.

(Signed) COCHRANE.



APPENDIX,

No. III.

LORD COCHRANE's LOG,

Produced to the Court by HIMSELF.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, H. M. Ship Imperieuse, 11th April, 1809.
							A. M.
1							Fresh Breezes, with continual rain.
2							
3							
4							4, do. weather.
5							Day-light, out pinnace.
6							6, Moderate and clear weather. Sent the boats on board the explosion-vessels to fix their trains.
7							
8							8, moderate and cloudy.
9							
10							10, out all boats, and cleared ship for action.
11							
12							Fresh breezes. Sent 12 barrels of powder to one of the small explosion-vessels.—At Noon, do. Weather.

							Bearings and Distance.
							Single Anchor in Outer Basque Roads.
							P. M.
1							Strong breezes. Employed variously. Handing up shot, &c. Sent boats to the explosion-vessels.
2							
3							
4							$4\frac{1}{2}$, ran down towards the inner end of the *Boyant* Shoal, and came-to in 9 fms. with the small bower close to the Shoal. North point of Isle D'Aix, East. South point S E by E. *Boyant* Beacon S $\frac{3}{4}$ W. Centre of enemy's fleet S E by S. French wreck S by E.
5							
6							8. 20. first vessel exploded.—8. 30. the second exploded, and several fire ships were kindled. Observed the enemy's fleet in great confusion, and cutting; several making sail. *Fire* ships coming down irregularly. Mediator and three others now on fire, close to the enemy.—At 9, *a* brig passed the Imperieuse all in flames, and swept an explosion-vessel from the stern: others kindled $1\frac{1}{2}$ miles to windward of the Imperieuse, and brought-to on the wrong tack. One grounded on Oleron. Six fire-ships passed the enemy at least $\frac{3}{4}$ of a mile to the westward. Strong breezes, with rain at intervals; tide setting to the S E. Captain absent with the boats.—At 12, most of the boats returned. Strong breezes, with small rain. Observed several of the enemy's ships to be broadside to the wind and tide.
7							
8							
9							
10							
11							
12							

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, H. M. Ship Imperieuse, 12th April, 1809.
							A. M.
1							Fresh breezes and cloudy. Employed hoisting in as many boats as possible.
2							
3							
4							½ past 3, observed the enemy's ships to be much scattered, and most of them *still* broadside to tide and wind, apparently ashore.
5							
6							At day-light observed 7 sail to be aground, and shortly after made that signal. Weighed from under the range of Aix, and stood out towards the fleet.
7							
8							At 7, made the signal *for* all the enemy's ships being ashore, except two. Dº. that they might be destroyed. Dº. that *part* of the fleet was enough to destroy them. Made several telegraph signals.
9							
10							Made signal that the enemy were preparing to heave off.—At 10, anchored close to the *Boyant* Shoal. South point of Aix S E by E.
11							At 11, fleet weighed and stood towards the enemy. Enemy's ships making sail for the Charante.—11 ½, fleet anchored N N W about 3½ miles distant. Enemy's ships heaving off, and making sail for the Charante.
12							

		REMARKS, H. M. Ship Imperieuse, 12th April, 1809.
		P. M.
1		At 1, weighed and dropped in towards the enemy.—1½, set the top-sails, and made sail after the nearest vessels of the enemy. Made the signal for the chace, being superior. Ditto that we wanted assistance.—1. 50. shortened sail, and fired a shot at the Calcutta.—At 2, came-to in 5 fms. on the Pallais Shoal; veered-to half a cable, and kept fast the spring. Commenced action with the Calcutta. Fore-castle and bow-guns firing at two other ships of the line.—2. 10. made the signal for the brigs and bomb to close, they having anchored too far off. Firing on the enemy. Emerald, Unicorn, Indefatigable, Valiant, Revenge, Pallas, and Aigle, standing towards us.—3. 20. cheered them as they approached. Sent a boat to the Calcutta, which had struck. Emerald, Unicorn, &c. firing on the enemy. Made their signal that the Calcutta had struck, *and sent a boat to tell them she was* boarded.—3½, Imperieuse ceased firing. Beagle, Growler, and Conflict joined. Employed repairing the rigging. Emerald, &c. still raking the enemy.—5½, enemy's two nearest ships struck.—At 6½, employed taking prisoners from the Ville de Varsovie and Aquilon, French ships of the line. Calcutta burning furiously. Enemy themselves set fire to the *Tonnant*.—8, all the ships weighed, and went farther out, the water being shoal. Imperieuse remained at anchor. Midnight, strong breezes, with rain. Boats employed shifting the prisoners.
2		
3		
4		
5		
6	*Killed in the action.* *Hy. Crookman*	
7	*P. Darouke* *John Mersitch*	
8	— *Wounded.*	
9	*J. Solomon* *J. Mason*	
10	*Mr. Marsden* *Mr. Gilbert*	
11	*J. Sherridan* *J. Hunter*	
12	*W. Gordon* *Jo. Whelan* *M. Goud* *W. Minchington* *J. Baod*	

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12				*Joined company the Redpole, Doterel, and Foxhound.*		

Remarks, H. M. Ship Imperieuse, *Road of Aix*, 13th April, 1809.

A. M.

Moderate weather. Ship's company taking some rest.

At 3 *in the morning the* Aquilon and Ville de Varsovie were set on fire. At 3 ½, weighed *anchor* and made sail further from them. Observed one of the fire ships to run on Isle D'Aix; while turning out to avoid the *explosion of the French* ships *that* had been set *on* fire.

At day-light, the Valiant, Revenge, &c. followed by the Indefatigable, Unicorn, Aigle, and Emerald, weighed *and made sail*, and went out and joined the fleet. *Hailed the Indefatigable, and asked if they would go on one quarter of the Ocean, that the Imperieuse would take the other. Captain of the Indefatigable answered that the main-top-mast was shot through, and that they were going out to the fleet.*—At 6, the Imperieuse anchored a little further out. Battery of Aix N E ¼ N. West point of Aix N N E ¼ E. East point N E by E ½ E. Boyant Rocks N ¾ W. Reef N W by N. in 5¼ faths. water, at the dead of the ebb spring tides.—6 ¼, Pallas passed under sail, the Captain hailed to know if he should remain with the Imperieuse: ordered Capt. Seymour to do so, if no orders had been given him to act otherwise. Pallas anchored; Beagle, Growler, Conflict, and Encounter brigs *followed her example.* Employed *clearing* the decks. Hove overboard a deal cutter which had been shot to pieces. Carpenter stopping shot holes in the sides and decks; seamen employed about the rigging.—At 8, *A.M.* sent the bomb, protected by the brigs, to fire on the enemy's Vice and Rear Admirals' *ships.* French Commodore and two other ships of the line pressing sail to get up the Charante.—At 9 ½, sent the launch to the Etna's assistance, she having touched on the *end* of the Pallais.—At 10 ¼, she got off, and commenced firing *on the enemy.*

(Signed) COCHRANE.

REMARKS, H. M. Ship Imperieuse, 13th April, 1809.

						P. M.
1						Fresh breezes, and squally. Brigs firing and bomb throwing
2						shells at the enemy. French ships endeavouring to get up the
3						Charante. Supplied one of the fire-vessels with a kedge anchor.
4						Shifted the foretop-mast, it being shot through. Employed re-
5						fitting the rigging, &c.—At 4½, the brigs weighed. Bomb ceased
6						firing and came out; strong ebb tide setting. Answered recalled
7						signal from Caledonia. Made signal, enemy can be destroyed.
8						Brigs, &c. anchored near us. Supplied the Beagle with a yard
9						to replace her main-yard. Completed refitting our rigging.
10						Strong gales. Made the *telegraph* signal that Pallas, brigs, &c.
11						might moor.
12						Midnight, squally weather.

H.	K.	F.	Courses.	Winds.	Signals.	Of.Sig.	REMARKS, Imperieuse, 14th April, 1809.
							A. M.
1							Fresh gales, with rain.
2							Cloudy, with rain.
3							
4							Day-light, observed the enemy to be still in the same state. Chassee Marées taking in their stores. Three of them getting
5							their guns out. Enemy's frigate Indienne unrigging. Answered
6							the recall-signal from the Caledonia. Made interrogatory signal
7							for unmooring to ditto. Answered signal to weigh from the
8							Admiral. Ditto to communicate with L'Aigle frigate. Un-
9							moored and hove-in to half a cable on the best bower. Made
10							signal for a Lieutenant from the Etna bomb. Dispatched a
11							cutter to the Admiral.
12							Fresh breezes, and clear. Got ready to weigh on the ebb tide.

REMARKS, H. M. Ship Imperieuse, 14th April, 1809.

H		REMARKS
		P. M.
1		Anchored here H. M. ship L'Aigle. Captain went on board L'Aigle.
2		
3		Fresh gales with rain. Etna bombarding the enemy's ships in the Charente.
4		3 ¾, hove short.
5		4 ½, weighed, and went out to the fleet per order.
6		Anchored in 10 fms. near the Caledonia. Furled sails. Captain went on board the Caledonia.
7		
8		Fresh breezes, with rain. Hoisted in the boats.
9		
10		Dark cloudy weather, with rain. Veered-to half a cable.
11		
12		Midnight, ditto weather.

(Signed) COCHRANE.

APPENDIX,

No. IV.

TRANSLATED FROM THE FRENCH.

Road of the Isle of Aix, on board the ship Ocean, 10th April, 1809, ZACHARIE JACQUES THEODORE ALLEMAND, *Vice Admiral, Officer of the Legion of Honour, Commander in Chief of one of the Naval Armies of his Majesty the Emperor and King, orders the following Dispositions, viz.*

FIRST DIVISION.

The pinnace of the Cassard.
The long boat of the Ocean.
The long boat of the Patriote.
The long boat of the Jemappe.
The large yawl of the Foudroyant.
The ditto of the Calcutta.
The 2d ditto of the Varsovie
The 2d ditto of the Aquilon.
The large yawl of the Elbe.
The 3d ditto of the Cassard.
The 3d ditto of the Tourville.
The 3d ditto of the Indienne.
The 4th ditto of the Tonnèrre.
The 5th ditto of the Regulus.

SECOND DIVISION.

The pinnace of the ocean.
The long boat of the Foudroyant.
The ditto of the Tonnèrre.
The ditto of the Indienne.
The large yawl of the Aquilon.
The ditto of the Ocean.
The ditto of the Pallas.
The ditto of the Hortense.
The 2d yawl of the Jemappe.
The 2d ditto of the Calcutta.
The 3d ditto of the Varsovie.
The 3d ditto of the Patriote.
The 4th ditto of the Regulus.
The 4th ditto of the Elbe.
The 5th ditto of the Foudroyant.

THIRD DIVISION.

The pinnace of the Foudroyant.
The long boat of the Varsovie.
The long boat of the Aquilon.
The large yawl of the Cassard.
The ditto of the Regulus.
The ditto of the Jemappe.
The 2d yawl of the Tourville.
The 2d ditto of the Foudroyant.
The 2d ditto of the Elbe.
The 2d ditto of the Pallas.
The 3d ditto of the Calcutta.
The 3d ditto of the Hortense.
The 4th ditto of the Ocean.
The 4th ditto of the Patriote.
The 5th ditto of the Tonnèrre

FOURTH DIVISION.

The long boat of the Cassard.
The long boat of the Regulus.
The large yawl of the Tourville.
The ditto of the Varsovie.
The 2d ditto of the Tonnèrre.
The 2d ditto of the Patriote.
The 2d ditto of the Ocean.
The 2d ditto of the Indienne.
The 3d ditto of the Regulus.
The 3d ditto of the Jemappe.
The 3d ditto of the Elbe.
The 3d ditto of the Tonnèrre.
The 4th ditto of the Aquilon.
The 4th ditto of the Foudroyant.

FIFTH DIVISION.

The long boat of the Tourville.
The long boat of the Calcutta.
The large yawl of the Tonnèrre.
The ditto of the Patriote.
The ditto of the Indienne.
The 2d ditto of the Regulus.
The 2d ditto of the Cassard.
The 2d yawl of the Hortense.
The 3d ditto of the Aquilon.
The 3d ditto of the Ocean.
The 3d ditto of the Foudroyant.
The 4th ditto of the Jemappe.
The 4th ditto of the Varsovie.
The 5th ditto of the Ocean.
The 6th ditto of the Foudroyant.

The yawls take the No. 1, 2, 3, &c. according to their rank and size.

The pinnaces shall be commanded by an Enseigne de Vaisseau and a Midshipman.

The long boat by a Lieutenant, an Enseigne, and a Midshipman.

The large yawls by an Enseigne and a Midshipman.

The others by a Midshipman, taken by preference from among those of the first class, who shall have due of the second class under their orders.

When a division shall be detached, it shall be commanded by the eldest Officer.

When two divisions shall be detached, they shall be commanded by the eldest Lieutenant of the two divisions.

If three divisions should be detached, they shall be commanded by one of the Captains of a frigate, as a Lieutenant of a man of war. In this case he shall embark without waiting for orders, according to his degree of standing. This service of honour shall commence from the head. It shall be the same when the whole flotilla shall depart.

If by an unforeseen event, the five divisions should have orders to go out, the Captains shall keep their two last yawls, which in case of need, shall serve for a reserve, and shall depart when the Admiral shall hoist the flag, sixteen for the first reserve, and twenty for the second.

The officer commanding one or more divisions, shall carry his flag at the main point of his embarkation on the starboard side, or at the main mast; he shall always go on board one of the good sailers.

In case of a chase, the best sailers shall harrass the enemy without engaging imprudently with too superior a force.

They shall approach the Commodore, when he shall make the signal for it, by a *broad pendant at the end of a gaff or at the foremast-head.*

If the embarkations are obliged to retreat, the best sailers shall take the worst in tow.

The Commodore shall never expose the division so inconsiderately, as to be under the necessity of making the signal for dispersing, which shall be a flag at the end of a long pole, or at the foremast-head.

Those who command an embarkation shall bear in mind that, although it is to their honour to display much courage in an

action, they are not to expose themselves to evident loss by their own fault.

The signal for the order of battle, if close behind one another, shall be a broad pendant over a flag, on the same pole or the same mast. This order shall always be formed according to the degree of swiftness, taking care as much as possible to put a strong embarkation between the two weaker ones.

The signal to chase without observing order, shall be by a flag above a broad pendant on the same pole or the same mast. 'Tis then there shall be the contest of honour to reach the enemy first, observing always the signals of the Commodore in order to comply with them immediately.

If any of the Boats of the flotilla should approach the shore in the night, they shall make themselves known by a fire on the even days, and two fires on the odd days.

The embarkations on departing on an expedition, shall always be provided with two barrels, containing each two-thirds water, and one-third wine, which shall be taken from the savings arising from retrenchments. They shall likewise have their stock of grapnels, towlines, masts. They shall not put up the last but when they can make an advantageous use of them, but never in a calm or in the wind's eye.

When the sea runs high, or it blows too hard, those embarkations only shall be employed, which are very capable of navigating, and the long boats shall then carry a piece of artillery suitable to the circumstances.

When it blows, the schooner shall go to the support of the divisions, but she shall not expose herself to be becalmed in the offing, particularly if the currents oppose her coming in again.

When the Admiral intends to send out one or several divisions, he shall make it known by one of the articles 8, 9, 10, 11, and 12, in the list of particular orders, when at anchor without the broad pendant six. He shall also give the signal for the point of the compass to which he wishes them to direct their course.

The commanders of the yawls shall attentively observe the Admiral's signals, who shall recall one division by its number, and the large American flag at the mast-head, and all the divisions by the large American flag only at the mast-head. If the Admiral after having recalled, should be desirous to have them return the way they came, he shall place a broad pendant at the mast-head, until he no longer replaces the large American flag, which shall recall them anew to their several stations.

In the night he will let off two fusees. These signals shall be obeyed immediately, but in re-entering with order.

When the Admiral is desirous that one or more divisions should rendezvous at the boom, he shall make the signal for it at sun-set, by the articles 8, 9, 10, 11, and 12, above described, and he shall add thereto the signal for the hour at which they repair thither.

Each embarkation shall take post, the length of the boom having a mooring there for their North West and their grapnels in the South East. The oars shall be shipped, the guns and

swivels ready to discharge, two matches lighted, and the soldiers who shall go on board, provided with their firelocks and sufficient ammunition.

The present shall be read to the principal officers and midshipmen extraordinarily assembled in the great cabin, and they shall take a note thereof in writing. It will be proper likewise, that the masters should know the signals the Commodore may make, and particularly those of the Admiral for calling in, causing to return, or recalling the division anew.

(For Copy)

The Adjutant of the Army,

(Signed) GASP^{d} DUPOEY.

POSTSCRIPT.

It will have been seen by the foregoing accurate detail of the proceedings on this Trial, that the most strict scrutiny of the conduct of the Commander in Chief took place, for the whole of the period to which the Inquiry was directed. The questions put by the Court to the numerous witnesses, including all the Commanding Officers of the fleet, and some of the most intelligent Masters in his Majesty's navy, appear to have been framed with such sedulous anxiety to do justice to the country, that, whilst they have had the effect of obtaining for Lord Gambier so many unqualified testimonials in refutation of the charge preferred against him, they could not fail to have brought to public view every circumstance of delay, neglect, or misconduct, had even the slightest occurred, during any part of his Lordship's command in Basque Roads.

C. SQUIRE, Printer, Furnival's-Inn-Court, London.

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